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DEBT SMASHDOWN

REPAYMENT STRATEGIES THAT SUCCEED



Dr. Bill Miller

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A WORD ABOUT MAKE A WAY MINISTRIES

Make A Way Ministries is a nationally recognized nonprofit (501c3) Christian and bible-based teaching and counseling ministry. The Ministry has operated continuously since September of 1987 assisting tens of thousands of families across the nation to overcome a variety of credit and financial problems.

The mission of MAWM is to lead people out of debt and to educate families so they can be victorious in overcoming financial difficulties. This publication is part of that ministry. MAWM publishes and sells publications in order to raise funds for its ministry.

If you would like to consider a donation into Make A Way Ministries it would be seed sown into good ground and would make it possible for the ministry to help more families. Please send your donations to:

Make A Way Ministries
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Granbury, Texas 76048

If you have any questions about the ministry, please feel free to call us during normal working hours Monday through Friday from 9:00 AM to 5:30 PM Central time.

Also, you may subscribe to our weekly bible-based e-newsletter called Prosperous Life Newsletter published continuously since January 1998 by going to the following link:

<http://www.creditcounseling.net/prosperous-life-newsletter.aspx>

Dedication

This book is dedicated to all the people who are dreaming about getting out of the debt trap they're in once and for all, and especially the ones who're willing to aggressively and doggedly pursue whatever it takes to make it happen.

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Introduction

Most families in America are in debt up to their eyeballs and most of them have no plans for ever getting out of it. Their parents may have been in debt and almost all their friends are currently in debt. So, it's assumed they will probably always be in debt too as a *de facto* way of life with at least four to seven credit cards, a car loan and a mortgage.

They have a dream that somehow, someday they may live long enough to be debt free, but they don't have any idea how they're going to make it happen, how long it could take, or when they might start working on it. And unfortunately, they've come to a point where they're so dependent on debt to make ends meet they're only about one month away from insolvency.

The TRUTH is folks don't have to live this way! We can actually take steps to become debt free and eventually before too long make it a reality. We just need to know the best ways to go after debt freedom so we have the best chance for success instead of breaking down in the middle of the program and giving up like most people do.

This book is going to expose you to ALL the different ways of paying down debt and how to go about each one. Most people only know about one way which is to add a small amount to each of their monthly minimum payments until some day, they know not when, they finally pay them off, which never seems to happen.

The truth is that's the WORST way to try to pay down debt and you won't find that strategy recommended in this book. You *will* find ways that work and all you need do is

follow the directions. Most people in America could be totally out of debt including their mortgage in about seven years or so, and even though that's hard to believe, it's based on actual experience. It just takes getting started on something and sticking with it until the objectives are achieved. Giving up isn't an option.

I believe this is the most complete book ever written on the subject of Debt Repayment. Everything you need to know is included in this book. It's a unique combination of both natural and bible-based approaches that will involve God in your debt repayment program and produce the very best results. Read it as a textbook and implement the ideas and principles that are best for you. We've prayed that the Holy Spirit will keep you on track all the way to debt freedom at the earliest possible date.

May God bless you with the abundant prosperity He has waiting for ALL those who refuse to give up!

Dr. Bill Miller
Winter 2017

***Hope deferred makes the heart sick, but desire fulfilled is
a tree of life.***

Proverbs 13:12

ONE

THE GOAL IS TOTAL DEBT FREEDOM

Most people long with all their hearts to someday reach a place in life where they can count on a financial surplus left over after all their regular bills are paid. A surplus would put them in a position to bless other people, participate financially in good deeds and maybe even accumulate some savings.

Unfortunately though, most people don't ever achieve that level of success because they stay in debt and never embark on a serious program for eliminating it. They just live with debt as though it's supposed to be a part of their lives while they wait for financial surplus to somehow drop down on them from above. Perhaps they will get an inheritance they didn't know about, or cash in on some get-rich-quick scheme they're always looking for, or win a giant lotto.

The truth is debt is THE major impediment to the achieving of real and lasting financial success. In fact, the two CANNOT cohabitate. It will almost always be one OR the other because indebtedness diverts the wealth of the

family to the payment of interest instead of wealth accumulation. By its nature debt creates a competing priority structure: debt payments have to come first. In short, it will ALWAYS be either debt OR financial success and MOST families spend their entire lives juggling chronic indebtedness never realizing that it produces an almost certain probability that financial surplus will NEVER show up for them.

ACKNOWLEDGING THE PROBLEM

During one's brief lifetime here on earth, opportunities occur, moments of reflection and self-evaluation, when truth breaks through and we realize that debt is actually hindering our financial development. Typically we react in one of several ways:

1. We ignore the moment and go on with our personal surrender to the lifelong bondage of indebtedness.
2. We seize the moment and embark on a program to reduce our debt and get lower monthly payments.
3. We REALLY seize the moment and embark on a program to ELIMINATE our debt forever.

I have been directly involved in financial counseling and teaching for more than thirty years. Most of that time people (mostly married women) came to our offices seeking some kind of relief from being over extended with too much debt. Overextended means they could no longer comfortably make all their monthly payments on time and were on the verge of defaulting on one or more of their creditors. Many of them had already defaulted. Over the years we've seen tens of thousands of families and enrolled

many of them into various kinds of debt relief programs. More than half of those enrollees dropped out of their programs prematurely, before the finish and we never heard from them again. For all we knew they wound up in bankruptcy court. Many of the ones who did complete their programs and paid off all their debts were back in debt trouble in less than two years. They had gotten lower monthly payments through the debt relief program but they failed to make an irreversible decision to stay out of debt after their program had been completed.

It grieved us to see folks dropping out of their programs but there was little we could do about it. We did come to see the reality though of how people operate with their money and that what drives chronic indebtedness is usually related to an unwillingness to WAIT until specific products can be purchased out of accumulated cash reserves instead of using credit. In today's culture people want instant gratification when the wisdom of the ages says to wait, to postpone purchases until we have sufficient funds to pay for them without going into debt. In other words, our desire to purchase something has to be LESS than our desire to AVOID indebtedness or we will fall to the temptation of debt as a means for satisfying our selfish desire to be instantly gratified.

The truth is, MOST people are in debt and MOST debtors eventually WILL experience some serious financial problem unless they're pursuing an aggressive strategy of debt elimination. In other words, not only will chronic debtors never achieve financial success, there's a high probability they will experience severe financial problems along the way causing acute tension and pressure for themselves and their families. In case you're not aware,

studies have consistently shown for more than 50 years that financial problems have been the number ONE cause of divorce and family strife. The stress of financial pressure is one of the most difficult kinds of stress and the greatest cause of sleepless nights and worry and anxiety and depression, AND even physical illness in our demanding, materialistic culture.

Another interesting fact is that during the Great Recession that started in the last quarter of 2007, the families that experienced financial crises, including record personal bankruptcies, were the ones who were in debt going into the economic downturn. The families who were debt free and had set aside emergency contingency funds weren't particularly affected by the recession. All around them millions of people were losing their homes and going on welfare to survive while the debt-free folks largely sailed through the hard times with relative ease.

COMPROMISE CAN'T BE AN OPTION

Here's the key question: do you or don't you want to experience and enjoy long-term financial success in your life? If you truly DO want it, are you willing to follow through on what's necessary and ACCEPT as your personal reality that indebtedness can no longer be a part of your life (except in case of dire emergency)? You'll have to establish a firm vision for your future and the future of your family. And, then stick to it.

You'll need to start by making an irrevocable decision to ELIMINATE all your current indebtedness. IRREVOCABLE means you REFUSE to go back into debt once you're free of it. And, while you're in the process of paying off your existing debt, you'll also have to be determined to

simultaneously stop adding any new debt. I can assure you it won't be easy and the Adversary the Devil will probably come with a test that will be hard to withstand.

In fact, on your own it might be impossible to withstand. But if you're a true believer in Jesus Christ, you won't have to be on your own. You'll have a lot of help. The Bible says you can do all things through Christ who strengthens you¹ and His Holy Spirit is going to be helping and teaching and leading and empowering and making a way for you to eventually come into your dream of financial success. God wants you to be debt free more than you do and He's ready to help the person who calls on Him for help. We know this because the Bible tells us so as we'll see in the next chapter.

¹ Philippians 4:13

Blessed are those who find wisdom...

Proverbs 3:13

TWO

WISDOM FROM THE BIBLE

The Bible contains more wisdom BY FAR than any other book ever written or any book that will ever be written in the future. The reason I can state that with such confidence is that I have also been a Bible teacher for more than thirty years and I've read and studied it enough to enable me to teach others. But more importantly, the Bible says about itself that it was written by the Holy Spirit. Does anybody have more wisdom than the Creator God of the universe? Please say NO!

In all of that wisdom the most popular topic in the Bible is the general subject of finances. Yes, God talks more about finances than any other subject and the second most popular subject isn't even close. In fact, God talks more about finances by a factor of three verses to one compared to Number Two. According to *Christian Financial Concepts* and its merger partner *Crown Ministries* that have specialized in biblical finances since 1976, there are more than 2,300 scriptures in the Bible dealing one way or another with finances and financial principles. In the New Testament about two-thirds of the parables that Jesus

spoke are about financial matters and the stewardship of God's provision.

Why would you suppose finances are such a popular topic in the wisest book ever written? The reason is that money is one of the most powerful commodities in the human experience and it requires a great deal of wisdom to use it correctly. Money is important and it can do a lot of good. But it also carries with it the power to corrupt people like nothing else. In truth, the ineffective and incorrect use of property and money blocks us from growing to maturity in other areas of life. So it's VERY important that we learn from all that wisdom how God wants us to deal with money and it's a significant project that we need to actively and aggressively pursue.

As a general observation, the Bible strongly discourages indebtedness. In other words, going into debt for everything, according to the Bible, is NOT a wise financial strategy. For centuries people have known intuitively that they should avoid debt. Also, credit hasn't always been as readily available as it is now. But in modern times since say World War II, easy credit has become increasingly a part of our culture with high interest rates that must be paid for the *privilege* of being provided with the means to commit financial suicide.

Following are just a few of the main scriptures to take note of if you're seriously interested in having your life line up with the Word of God:

Romans 13:8 = This scripture advises believers to owe nothing to anyone except love to one another. Its context is in essence instructing us to be submitted to government

authorities and to each other instead of to creditors because the creditors will wind up with the most attention.

Proverbs 22:7 = The Borrower is a servant to the lender which means the lender by its inherent nature seeks to achieve a higher priority in your life than God. The fact is the legal system in the U.S. favors the creditor and puts the debtor on the defensive and in a subservient relationship with the creditor.

Deuteronomy 28:12 = According to Scripture one of the blessings of God is debt freedom. In the Old Testament God used indebtedness as a curse OR debt freedom as a blessing in response to one's disobedience or obedience. I recommend reading this chapter for yourself keeping in mind that God no longer uses the curse part. Fortunately, believers have been redeemed (rescued) from the Curse of the LAW and connected back to the blessing of Abraham.² Nevertheless, we can put ourselves back into bondage as the Curse once did by voluntarily getting into debt.

Matthew 6:24 = This scripture makes the point that it's impossible for a person to simultaneously serve two competing authorities. Indebtedness draws us into a relationship of servitude to the credit industry at the same time true believers have pledged to make Jesus their LORD.

Deuteronomy 15:6 = This scripture points out that God would fulfill His promise to bless Israel by making them free of financial indebtedness and by enabling them to be lenders to other nations so they could not rule over Israel.

Proverbs 22:26-27 = This scripture is one of several that warn believers to avoid guaranteeing the debts of others

² Galatians 3:13-14

because they could become the obligations of the Guarantors in the event the debtors default. Guaranteeing someone's indebtedness should NOT be entered into even for close relatives unless you're able and willing to pay the related obligation without going into debt yourself.

CHANGING YOUR THINKING

Folks who sincerely want to escape the debt problem are going to have to change the way they've been thinking. Our natural tendency is to identify with the way the culture handles money, and since most of our friends and family are in debt, we think that's the only way or the best way to live life. We follow blindly in their footsteps not realizing that probably more than ninety percent of the people we're following have either already experienced or will someday experience severe financial problems. It's virtually a guaranteed scenario!

The Bible says that the way we think determines what we do and who we are in life.³ If we THINK being in debt is the normal way to live, that's the life we'll pursue. If that's all we've ever see in life, that's what we'll do. It's who we will become in life unless we recognize that there's a flaw in what we're thinking. The good news is that anybody can simply decide to CHANGE the way they've been thinking and begin to pursue new ideas, wiser ideas that will produce a better outcome!

I can't over-emphasize the importance of this little section. The fact is, EVERYTHING in this book requires that you change your thinking about being in debt if you truly want to achieve financial success. Elimination of indebtedness

³ Proverbs 23:7

is at the doorway of this entire message. It's not about simply reducing your monthly payments; it's about changing what you believe. It's about acknowledging that most of the people you've been following after don't know what they're doing. It's about wanting to be different with a different outcome called financial success and it's about realizing that you can NEVER have that unless you are willing to break the mold and start thinking differently for yourself. Said another way: you will NEVER be financially successful unless you AVOID personal indebtedness like the plague!

In concluding these first two chapters, you should take away the idea that there's something really special about being Debt Free. There's a freedom and a peace that comes that's hard to match in any other way. People who live in stress and under pressure are suffering because of their indebtedness. But there are some people who have no debt whatsoever, no monthly payments, not even a home mortgage. And in addition they have a multi-year contingency fund set aside so they can ride out whatever Recession or HARD TIMES come along. They don't worry and they don't lose sleep. Instead of paying interest to creditors every month, they take those funds and put them into investments or take some extra time off. They're no longer slaves to their creditors. They're in control of their lives simply because they made a decision some time ago to live on a cash basis and avoid indebtedness.

This is where you want to be, isn't it? And that's the purpose of this publication: to get you to that kind of life in the shortest possible time. But to be successful you'll need to be organized, persistent and aggressive, attacking your challenge with resolve. Set your face like flint and

don't settle for anything less than 100 percent success and TOTAL Debt Freedom. Compromise isn't an option even though you'll have many opportunities to do it. Trust this publication and be diligent to follow our suggestions all the way through until you achieve your victory! May God now empower your desire to become debt free!

Do not love the world nor the things in the world.

1 John 2:15

THREE

THE ADVANTAGE OF BEING A CHRISTIAN BELIEVER

Once the decision is made to get out of debt, most people assume they have to do everything themselves. We go out in our own strength thinking we have total control over getting out of debt just like we did when we got into debt. We got in debt ourselves so we figure we have to get out of debt the same way. And, we expect to be able to reach our debt freedom in a short period of time even though it has probably been a long process that brought us to our present situation.

If you're a Christian believer, the good news is that God would like to help you get through your debt repayment process. It's not likely to be a short process but anything can happen. It will take the average family 7 to 10 years to finish the program with a paid off mortgage at the end. But after that, you have the rest of your life to be debt free.

If you're not a Christian believer and you're not interested in being one, please skip to the next chapter. You certainly don't have to be a believer to become debt free but it's been helpful for a lot of people to be one. We're a Christian

ministry so we talk about God a lot. But the principles of debt elimination will work no matter what your religion is, or even if you don't follow one, if you just follow everything else we recommend in this book.

Meanwhile, if you *would* like for God's help to be available, the Bible says you must first acknowledge His Son Jesus Christ whom He sent to pay for your sins and for the sins of all mankind. If you have already made Jesus the Lord of your life, you also may want to skip to the next section in this same chapter and continue your reading.

So, if you have never accepted Jesus and you are ready to do so today, just say the following prayer and mean it with all your heart. Most people like to speak it out loud so they can hear it.

Jesus, I believe in you and I receive you today as my Lord and Savior. I believe that you died for me and that you rose from the dead. Thank you that my sins are forgiven. Come into my life today and show me a new way. I thankfully receive eternal life. Amen.

If you prayed this prayer today and meant it with all your heart, the Bible says you've been "born again" and have received eternal life. As of this moment you're a new Believer and you're eligible for God to take over your debt elimination efforts. Just ask Him and he'll lead. By putting your faith and trust in God, the way to life's victories is to involve Him in whatever you endeavor to accomplish. Just put your faith and trust in Him and *expect* the victory!

AFFIRMING GOD'S ROLE

Nevertheless, if we prefer trying to get out of debt on our own, God will step aside and let us go ahead. Soon, as with

any endeavor that excludes Him, many of us will become frustrated and burned out when we don't achieve debt freedom in a month or two and we will either finally turn to Him for help or revert back to what we were doing before. When we're finally ready to let Him take over, He will gladly do so and He will succeed where we failed.

Certainly many people have gotten out of debt without any apparent help from God. They felt they didn't need His help and many of them are very proud of what they were able to accomplish. But God always has a better way than what we can achieve ourselves. Perhaps there were some tensions or some sacrifices that could have been avoided if He had been the source of the program. Perhaps it would have happened sooner had the Lord been at the controls. And if the process to achieve debt freedom was not based in faith, God wasn't pleased with it anyway.⁴

For a Christian, achieving victory over indebtedness doesn't mean that you first have to wait to be totally out of debt. And it doesn't mean that you necessarily have to go through a period of sacrifice and denial. It *does* mean you've given the problem to God and that under His direction, you've taken whatever action you can to do your part toward achieving debt freedom. After that it's up to God and what most people forget is that He alone is our Provider. Without adequate provision, we'll never be able to get out of debt no matter how hard we try. In truth, we desperately need His help to overcome our indebtedness just as we need His help in every other area of life. You got yourself into debt on your own without God. Now to get free of it let Him help. He wants to so let Him help!

⁴ Hebrews 11:6

GETTING STARTED GOD'S WAY

Putting the Lord at the head of your debt freedom program requires that you clear several important hurdles so that you get off to a good start. Lay the following *foundation* and the rest of it will flow easily.

1. Acknowledge that indebtedness represents a problem with your finances. This is not so easy because our society eagerly embraces credit. We're used to it and many of us have come to depend on it. Therefore, our flesh will resist admitting that living by credit is a problem. But Believers have been instructed to come out of the world and to put aside its ways. We must learn to live without something that God calls a curse and come back to living by faith in the area of our finances. Only after you've come to admit that your debt is a problem can you begin to set up the means for correction.
2. In setting up the means for correction, you need to ask God to help you REPENT so you can turn and go the opposite way with your life. The use of indebtedness, except in family emergency, isn't desirable. If you can see that credit is NEVER God's provision, you'll eventually come to the point where you long to be out of debt once and for all. God hears the cries of His people and if you can come to this conviction on a spiritual level, the outlook for success, in God's timing, is virtually assured.
3. Once you've decided to go in the opposite direction, you can ask God for His leading to set up the details of a program to get out of debt. What changes do you need

to make in the administration of the finances God provides? What do you need to learn and to change to become a good steward? By repenting you've declared before God that you are prepared to live another way, without debt and on a cash basis, if He will help you and show you the way.

4. Understand that Jesus won the victory for you over indebtedness when He was crucified on the Cross. Go back and study Galatians, Chapter 3 and re-verify for yourself that for those who'll live by faith, the blessings of Abraham are available. Those blessings include financial prosperity and the ability to acquire wealth through faith instead of by indebtedness. By faith you can apprehend the victory of Christ and claim victory over your own circumstances. Ask God to grow your faith for the eventual end of your indebtedness.
5. As already mentioned, once you've made God the head of your debt freedom program, make an irrevocable decision to change your lifestyle and live without debt. Irrevocable means you are not going back. Irrevocable means that you deprive yourself of the means of acquiring new debt by removing your credit cards to a safe place or even destroying them if necessary. Irrevocable means you will purpose to wait on God's provision instead of resorting to credit.

With this strong foundation, you're destined to succeed, and with determination and commitment, start a new life. The next chapter lays out a base case debt repayment strategy that will help many folks pay off their debts in the shortest possible time. Everyone should read the next chapter no matter your current debt status. Now, go for it!

***Commit to the Lord whatever you do, and he will establish
your plans.***

Proverbs 16:3

FOUR

THE ACCELERATED DEBT REPAYMENT STRATEGY

In order to be successful in implementing a *debt elimination plan*, you need to be determined and you need to follow a structured strategy. Most people just try to throw money at their indebtedness without having a real plan based on sound reasoning. You need to implement YOUR repayment plan following certain steps that will almost always work. You must be organized, you must be persistent, you must be consistent and you can't let anything hinder you from obtaining your ultimate objective. If you're fed up with indebtedness, if you're tired of always being restricted from what you want to do financially, then you should be ready to go forward aggressively with this program.

This first repayment option is called the Accelerated Debt Repayment Strategy, or simply ADR. It's most useful and appropriate for families who've not yet defaulted on any of their monthly obligations. It's a structured, self-directed program that when carefully followed according to the instructions in this book, will repay ALL your indebtedness in the shortest possible time. At the same time it will

protect and even improve your credit rating. Later on we'll be looking at other debt repayment options that involve special programs that are best for people who're already having difficulty making their monthly payments on time.

Just so you know, most people who're trying to pay off their bills divide the amount of extra money they have among ALL their creditors and then they send those amounts in addition to their MINIMUM payments to ALL their creditors each month. But that's NOT the most efficient way to get out of debt. There's a better way and you implement this strategy by observing the following Steps:

STEP ONE:

If you haven't done so already, make an IRREVERSABLE decision for your family that you're going to make a change in the way you handle your finances and that you're going to follow your debt repayment plan no matter what happens until you get out of debt. You must first decide to DO something and then take the related action before you can ever accomplish anything! The main reason most people never get out of debt is because they never take the first step. And, the decision to do it needs to be irreversible in the sense that you've made the decision not ever to go back to where you've been. No going back! The decision has been made and you and your family are committed.

STEP TWO:

Conduct a family meeting and get everyone on the same page. All the members of your family need to be in agreement with what you've decided to do and what your ultimate objective is. Make debt repayment a top priority

for your WHOLE family. You need everyone involved, everyone committed to supporting your debt repayment plan. The entire family will have to make sacrifices until your objectives have been achieved and you need to ALL be in agreement when questions arise.

A good idea is to set up a procedure for resolving expenditure questions as they arise. From the beginning of the plan's implementation, everybody should be in agreement on the procedure and how it will be used when these questions arise. Suppose one family member wants to spend money on something and the alternative is to apply that extra cash to your debt repayment plan. How will you resolve it without straining relationships? How will you be consistent when these questions keep coming up over the life of your program? You need a resolution procedure and you should agree from the beginning on how you'll use it.

Also, it's really constructive to have your children involved in the program too, even small children so that everybody is on board and enthusiastically supportive of the family project. Getting together regularly for family meetings to discuss progress and future plans is a wonderful way to maintain the family's level of interest and enthusiasm as the weeks and months and years go by. EVERYONE has to stay determined to never quit and never go back.

STEP THREE:

The next step is to take the time to prepare a Family Budget. A simple form has been provided for your use at the end of this Chapter. Did you know that more than 85% of all American families have NEVER had a Family Budget? As the money comes, it's spent according to a

loose priority list that leaves open how the family's optional and miscellaneous expenses are going to be paid for. This is why most families run out of cash around the 21st of the month and have to put the rest of the month's expenses on credit cards. They have no idea or plan for how they're going to spend their money and so they just spend it until it runs out.

In order for this program to work, you'll need to have some form of Family Budget because part of the plan is to identify the amount of SURPLUS cash you're going to have available at the end of the month to apply to your debt repayment in the manner revealed in this publication. If you find yourself needing help in putting your Family Budget together, we recommend that you purchase one of our other publications, which provides a lot of detailed information about budgeting. Look for the following title on *www.Amazon.com*:

Budget Yourself to Financial Victory

STEP FOUR:

From the outset of your program, it's essential that you STOP using credit cards and STOP acquiring new debt. Cut those credit cards up if you have to and throw away the pieces! If you run short of cash during the month, do your best to find it in some other place in your Family Budget instead of using credit. If you don't stop acquiring new indebtedness, then you'll just be replacing the old debts with new ones. And you'll have less cash available to pay down your already existing debts because you'll be making new minimum payments on the new debt you've been acquiring. THIS PROGRAM CANNOT SUCCEED IF

YOU DON'T STOP ACQUIRING NEW DEBT. Please don't fail to take this essential step.

STEP FIVE:

As soon as possible put together a contingency fund of at least \$2,000.00 before you start trying to get into your debt repayment program. If you get started in the repayment program too soon and an unexpected emergency strikes, it will be really discouraging to have to go back and take some of your old debt back to cover the cost of the problem. Having a contingency fund of this size can help you avoid that kind of dilemma. You will want to have those funds set aside in some kind of bank account you can't access too easily and it should be a real emergency that causes you to go into your contingency.

Ultimately you'll want to be saving for a much larger contingency fund as you're able. You'll want it to eventually reach an amount equivalent to at least six months gross income. After that you should be working to put together a fully funded contingency fund of at least \$100,000.00. That's one hundred thousand dollars! If you don't have debt payments every month, you'll be surprised at how fast you can accumulate such a meaningful savings. Once you have it you'll probably never miss sleep again.

STEP SIX:

Next you'll want to gather all your bills together. Find the most recent statement for each creditor that you won't be able to fully pay off at the end of the current month. Then arrange those statements starting with the lowest balance on top and going through all your creditors in the order of

ascending outstanding balance until you reach the creditor with the highest outstanding balance at the end. For most families the creditor with the highest outstanding balance will be for their home mortgage. To clarify: arrange all your debts from lowest outstanding balance at the top of the list to highest outstanding balance at the bottom.

Now summarize your creditor information on a piece of paper starting with the list of your creditors from lowest outstanding balance to highest. Indicate the creditor name, the current outstanding balance and the related monthly minimum payment. There is a table at the end of this chapter showing a typical scenario. This list will be the launch pad for your ADR Strategy.

STEP SEVEN:

Before you start the plan, pull your credit reports from the three national credit bureaus: Equifax, Experian and Trans Union. According to federal law you're entitled to receive one free credit report from each of the credit bureaus each year. To obtain your free annual credit reports simply go to the following web site: ***www.annualcreditreport.com***. You can order all three credit bureaus from this single web site. It is the only authorized website in America for this purpose.

The reason for ordering your credit reports is to be sure that you are including all your creditors in your debt reduction program. Sometimes people forget about older debts and will neglect to include them in the program. But your credit reports are likely to include everything up to seven years from the date of your last payment activity.

Don't forget to check the credit reports of both husband and wife because sometimes you can find a surprise where you didn't expect it. By the way, did you know that it's estimated that more than 70% of all credit reports contain errors? If your reports have any errors, you'll want to begin a correction process because as you go through your debt reduction program, you'll want to see improvement in your FICO Scores so you can obtain lower interest rates on your remaining debts thus shortening the term of your repayment program. If you need help correcting errors on your credit report, you can consider purchasing our publication on this subject either by contacting us or linking to the following title at *www.Amazon.com*:

Credit Repair that Reduces Monthly Payments

STEP EIGHT:

Last, call each of your creditors and ask them to reduce your current interest rate to the lowest possible level. Many people who've made their payments on time and have generally a good payment history are paying interest rates higher than they have to because they haven't paid attention. Many Creditors will work with you and reduce your interest rate on a provisional basis but you have to request a reduction. If you make your payments on time for the next several months, they'll then consider even another reduction.

The point is, consumers have to be attentive and proactive about their credit matters. You don't have to be afraid of your creditors. Tell them what you want and see what happens. The worst that could happen is that your creditor refuses to reduce your interest rate. But some of them WILL respond to your request and that could shorten

your repayment program substantially because more of your monthly payments will be going to pay off principle. It's definitely worth a try!

If you feel the least bit intimidated about contacting your creditors, Chapter Six provides a lot of detailed info about how to deal with them. Do NOT allow yourself to be intimidated with the idea of talking to creditors. Most of the people you'll be talking to have less knowledge and responsibility than you do. Sometimes they talk tough but they've been trained to do that so they can get the upper hand. It never hurts to call and find out what they have to offer that could help you reach your objectives faster than would otherwise be possible.

USING THE LOW BALANCE ACCELERATOR STRATEGY

The key for getting out of debt in the shortest possible time is to put the maximum amount of surplus cash into the program. Therefore, when you prepare your Family Budget form, you'll want to be tough and frugal in calculating the maximum amount of Surplus Cash you have left over after paying for all your living expenses. Look for money everywhere! You must be able to come up with a positive number for the Surplus Cash calculation in order to get out of debt with this program. Notice that there is NO place for credit card payments on the Family Budget form.

Next, take the list of creditors and outstanding balances that you prepared in Step Five and add up all the monthly minimum payments. Then subtract the total of the monthly payment minimums from the available **Surplus Cash** that you derived from the preparation of your Family Budget. The resulting number is called the **Accelerator**.

Next, review your list of outstanding balances which you previously arranged starting with the one with the lowest balance and proceeding through the list to the creditor with the highest outstanding balance at the bottom of the list. Please see the Typical Example shown at the end of this section to help guide you through this exercise.

Your first objective is to **ATTACK** the debt with the lowest balance and pay it off first as explained below and then afterwards descending down the list as you pay off each creditor with the lowest remaining balance.

As the final step, add the full **Accelerator** amount to the monthly minimum payment at the top of the priority list and do that every month until it's paid off. The top of the priority list is the one with the **LOWEST** outstanding balance. All the other bills receive just their normal minimum monthly payments.

When the top priority bill is paid off, i.e. the one with the lowest balance, calculate a new **Accelerator** by adding the monthly minimum of the bill you've just paid off to the old **Accelerator**. Then move this as a new **Accelerator** down to the second bill on the priority list adding it to the normal minimum payment you're already paying. Continue moving down the list in this manner applying an increasing **Accelerator** to each monthly minimum until the entire list of debts, **INCLUDING YOUR MORTGAGE**, has been totally paid off. If you ever receive extra money for something, always pay down the remaining creditor with the lowest balance.

Using this approach you won't care which accounts have the highest interest rates because there's no significant difference in the repayment time between this approach

and one that features a prioritization by interest rates. When we run the two different approaches through the computer, they always come out about the same. The advantage of the recommended approach based on lowest outstanding balance is that you'll begin to see progress earlier in the program which helps motivate most families to push through to victory. That's the main reason we recommend it over the approach based on interest rates.

On page 44 you'll find an example of a simple accelerated repayment plan covering seven unsecured creditors. The secured debts (mortgage on the home and the car note) have been included at the end of the list. This is a fairly typical example both in the number of creditors and the amount that the family is in debt. Please be sure to study the comments that follow the numbers until you're sure you understand how it works.

DON'T FORGET TO CONSIDER BALANCE TRANSFERS

As you implement your ADR Strategy, don't forget that because you've gone after your indebtedness before your credit rating was tarnished, you may be able to make balance transfers from one credit card to another. One advantage from this is that you may be able to arrange an extended period of time during which you won't be charged interest. That's right, zero interest for perhaps a year or even longer. There will be an upfront charge of say 3% of the amount you're transferring which you should compare to how much interest you would be paying if you don't make the transfer. If you're not paying interest on a couple of the creditors at the top of the list, it will help you pay off your debts more quickly because more of your monthly payments will be going to repay principal.

Balance transfers can be a benefit but there are a couple of things to watch out for:

1. You should limit the number of balance transfers to about two or three per year in order to avoid having a detrimental effect on your FICO Scores on your credit reports.
2. You should always wind up on ALL your creditor relationships with outstanding balances that are less than 50% of their individual credit limits in order to maintain the highest possible FICO Scores. Keep in mind that the higher your FICO Scores, the lower the interest rates you can qualify for and the sooner you will be able to pay off all your debts.

Analyze the applicability of your debt portfolio to this idea but let's just say you were able to use it to *exchange* the outstanding balances of the two creditors at the top of your list, i.e. the two creditors with the lowest balances. The result would be that you would be working on them during an extended period when NO additional interest would be charged. Just figure out what you want to do and call each of the creditors to find out if they would be interested in offering you a balance transfer opportunity.

CONSIDER WAYS TO INCREASE YOUR INCOME

While you're involved in this program, you should consider how to increase your income even by a small amount and complete your program sooner. The idea is to seek additional income and apply ALL of it to the ADR Program. Resist the temptation to use it to increase your standard of living and apply it ALL to your ADR.

One idea to consider is finding a second, part time job even if the additional income is only a few hundred dollars per month. Even small amounts applied to the program over a period of time will add up and significantly reduce the original debt repayment term.

Another idea is to conduct Garage Sales of things in your home that you no longer have any use for. One person's "trash" is another person's treasure so look carefully around your home to find things that are no longer useful. Anything you find there without a use or a sentimental value may turn out to be a cash generator that will help you get out of debt.

A third idea is to start a home-based business especially if you are a full-time W-2 employee for some company. Why? If you start your own company, you're entitled to more than one hundred possible tax deductions that the IRS would love for you to take advantage of. Our tax code is written largely to encourage the formation of small businesses. Go ahead and work for your W-2 employer while conducting your small business in your spare time so that you can take the tax deductions. The objective is to reduce your personal income tax which increases your disposable income. And you know where to put that additional income, right? We DO have another publication that can help you start a small business. Either contact our office or look for the below title on *www.Amazon.com*:

From Employee to Employer in Ninety Days

PURSUING SUPERNATURAL PROVISION

One of the benefits of being a Christian believer is the availability of God's Grace which is defined as His

undeserved favor and empowerment. During whatever program you wind up in, you can be praying for miraculous provision by grace through faith. And along with your prayer you can begin to EXPECT what you've asked for to show up. God wants you to be out of debt more than you do and He has extra provision for you if you can connect to it by faith. He's not usually just going to drop it in your lap. Rather, you will have to receive it by faith the same way you received salvation.

Supernatural provision is something to be actively pursued by Christian believers. The Bible says that believers have been redeemed from the curse and connected to the Blessing of Abraham.⁵ Biblically speaking, believers have been "rescued" from the curse of indebtedness and connected to the blessing of abundant provision. Believe for God's provision with the expectation that He wants you to have what you've asked for.



You're now ready to design your very own ADR program and get moving toward the elimination of your indebtedness. So, take control of your finances and implement your repayment strategy ASAP. Start by making a list of all your creditors from lowest to highest balance. Be relentless and stay on top of your program. Go for it aggressively and you'll be seeing substantial progress in no time!

⁵ Galatians 3:13-14

Typical Example:

<u>Creditor</u>	<u>Balance</u>	<u>Min Mo Payment</u>
Discover	1,050	21
Sears	2,250	50
Citibank	3,000	68
Chase	3,500	70
Amex	4,200	84
Bank One	5,600	112
Capital One	<u>6,100</u>	<u>183</u>
Sub Total Unsecured	25,760	588
GMAC Auto	17,125	350
First Mortgage	<u>153,200</u>	<u>1,250</u>
TOTALS	\$196,025	\$ 2,188

EXPLANATIONS:

- Surplus Cash from Budget = 650 (before payments to unsecured creditors)
- Accelerator = $650 - 588 = 62$ per month
- Accelerator should be added to the minimum payment at the top of the Priority list only
- Payment to Discover = $21 + 62 = 83$ per month
- All other payments remain the same (i.e. pay only the minimum monthly payments) until Discover is paid off
- Then payment to Sears = $50 + 83 = 133$ per month until paid off
- Then payment to Citibank = $68 + 133 = 201$ per month until paid off, etc.

FAMILY BUDGET

(Monthly)

Income

Gross Salary #1	_____
Gross Salary #2	_____
Total Deductions	_____
Net Income #1	_____
Net Income #2	_____
Take Home Pay	_____
Pension/SS/Unemployment	_____
Rental/Other Investments	_____
Child Support/Alimony	_____
Second Job/Other Income	_____
Total Available Income	_____
Tithes and Offerings	_____
Net Spendable Income	_____

Essential Living Expenses

1) Housing (34%)	
Rent (including storage)	_____
Mortgage	_____
Second Mortgage	_____
Insurance	_____
Property Taxes	_____
Home Owners Association	_____
Lawn/Pool/Security	_____
Maintenance/Pest Control	_____
Total Housing	_____
2) Utilities (7%)	
Electricity/Natural Gas	_____
Home Telephone	_____
Cell Phone	_____
Water/Sewage/Garbage	_____
Total Utilities	_____
3) Household Food and Supplies (12%)	
Groceries	_____
Toiletries/Cleaning Items	_____
Lunches (work/school)	_____
Total Food/Household	_____

4) Transportation (15%)

- Auto Payment #1** _____
- Auto Payment #2** _____
- Auto Insurance** _____
- Gasoline/Tolls** _____
- Repairs/Oil Changes** _____
- Tags/Registration** _____
- Transit Fares/Parking** _____
- Total Transportation** _____

5) Insurance (5%) indicate by* if part of payroll

- Medical** _____
- Life** _____
- Other** _____
- Total Insurance** _____

6) Medical (3%)

- Medications/Vitamins** _____
- Doctor Visits** _____
- Dentist** _____
- Eye Care/Other** _____
- Total Medical** _____

7) Legally Required Payments (4%) **

- Child Support/Alimony** _____
- Back Taxes to IRS** _____
- Secured Loan payments** _____
- Student Loans** _____
- Secured Debts/Loans** _____
- Other Debts/Legal** _____
- Total Legal/Loans-Debts** _____

Flexible Living Expenses

8) Clothing (3%)

- Purchases/Uniforms** _____
- Dry Cleaning/Laundry** _____
- Total Clothing** _____

9) Other Flexible (4%)

- Child Care/Private School** _____
- College Plan/Expenses** _____
- Cosmetics** _____

Barber/Beauty Salon	_____
Charitable Contributions	_____
Total Other Flexible	_____

Optional Living Expenses (8%)

Fitness Club/Recreation	_____
Entertainment/Eating Out	_____
Cable TV	_____
Internet	_____
Gifts	_____
Vacation	_____
Pet Care	_____
Allowances	_____
Books/CD's	_____
Subscriptions	_____
Tobacco	_____
Miscellaneous/Other	_____
Total Optional	_____

Total Living Expenses _____

Surplus Cash: (5% minimum) _____
(Savings, Investments or Unsecured Debts/Credit Cards)

The foregoing percentages are based on national averages relative to Net Spendable Income. If insurance is part of payroll, do not add into Living Expenses. Don't worry about minor relative differences between your budget and the national averages. You are only interested in knowing MAJOR differences.

Property Taxes and Homeowners Insurance should NOT be itemized if the mortgage payment includes the related escrows. If the mortgage payment does not include taxes and insurance, those costs should be itemized by dividing the annual total by 12 to equal a monthly allocation to be included in the Budget where indicated.

Items such as car repairs, vacations, clothing and gift expenses can be calculated by dividing the annual total by 12 to equal a monthly allocation.

**** If this category does not apply, add the 4% allocation to surplus cash for savings.**

***In their hearts humans plan their course, but the Lord
establishes their steps.***

Proverbs 16:9

FIVE

THE MANAGED DEBT REPAYMENT STRATEGY

Let's say you're already having trouble making all your monthly payments on time. Perhaps you've missed some payments and can't see how you'll ever be able to catch up. The ADR Strategy covered in the previous chapter doesn't quite fit your situation and you need to consider other strategies. What are your options?

From this chapter forward, this book will be covering repayment strategies for families who're in various stages of financial difficulty. Most people are probably in this category anyway so don't feel bad about it. Perhaps 50% of all American families are experiencing difficulty in one form or another so you're just part of a relative multitude. And to be sure, it's a multitude you should want to get away from at the earliest possibility.

Look, stuff happen! It's easy to get in debt and one of the things we're thinking when we do go into new debt is that somehow, some way we'll be receiving enough income in the future to make the payments on it. But things frankly don't usually go as we anticipate. We get laid off, or have

an illness, or have an unexpected repair bill, or get downsized, or get merged with another company, or get on the wrong side of a boss, etc., and our income doesn't come out the way we had planned.

UNDERSTANDING THE CREDIT COUNSELING INDUSTRY

With this in mind, the purpose of this chapter is to provide information about a popular credit counseling service known as a *Debt Management Program (DMP)*. It is also called *Debt Consolidation* and if you're considering a DMP, you should know that there's a lot of confusing information out on the Internet regarding what it is, how it should be used and where you should go to receive it. Included in the confusion is the fact that the Internet also refers to another kind of counseling service as *debt consolidation* so it's important to understand the difference between the two services so you don't get into trouble by getting into the wrong program, which happens quite frequently.

In sum then, there are two kinds of *Debt Consolidation*. The traditional service is the one that's also called DMP and it's a program designed and supported financially by the nation's creditors. A DMP is for people who are beginning to experience difficulty in making all their monthly payments on time. Perhaps they're even a month or two delinquent with their payments. DMP programs are ONLY offered by nonprofit organizations and their function is to arrange a more affordable repayment plan for the debtor. Usually that is achieved by decreasing the interest percentage for the duration of the program which is usually about five years. The way it works is that the debtor client makes a certain payment amount each

month available to the nonprofit agency which then disburses those funds to the creditors according to the agreement that has been worked out. There may be a small cost to enroll in the program but there are some agencies that rely on donations and grants and do NOT charge fees. Also, some of the agencies charge small monthly maintenance fees which are included in the monthly payments and disclosed at the time of enrollment. Be a smart shopper: the free one isn't always the best one.

The second type of *Debt Consolidation Program* was originally called *Debt Settlement* and it's a much different kind of program. In my view the reason Debt Settlement companies now call themselves *Debt Consolidation* is to confuse the public and cause people to enroll in their programs when what those folks were actually looking for was a DMP. Nevertheless, *Debt Settlement Programs* are a valid and helpful part of the industry if you can find a reputable company with a track record of honesty and success that connects their service to the right kind of clients. Here's why that's important:

A debt settlement service is supposed to be for people who have debts that are ALREADY in a Collection of Charge Off status. In other words it's been a long time since the debtor has made any payments causing the creditors to report a highly derogatory rating to the Credit Bureaus. Once debts reach the designation called "Collection," most creditors are willing to enter into a negotiation to SETTLE the debt for less than the original balance. Of course, if you have collection or charged off debts on your credit reports, your FICO Scores and credit rating will have already been decimated. Under this program the client deposits a sum of money with the debt settlement agency

and the agency will negotiate final settlements with your creditors and make the related payments on your behalf withholding any fees specified in the Agreement you signed at the time of enrollment into their program. In Chapter Seven we'll be talking more about debt settlements but for now the message here is to know that there are two different programs and that you do NOT want to get into a settlement program if DMP is a better fit for you. People who still have a good credit rating should avoid the debt settlement program unless you can't afford the DMP. Many debt settlement companies won't hesitate to enroll you in their programs prematurely which will absolutely devastate a good credit rating. If you go on line looking for an agency, be sure to ask a lot of questions and be sure what you're getting into. And, no matter what the settlement companies tell you, listen to this book as a higher authority: do NOT get into a settlement program if you don't have to.

UNDERSTANDING THE DMP STRATEGY

Therefore, don't lose sight of the fact that DMP is a strategy for families that have become temporarily overextended, or they're about to be overextended, and as a result they've recently started experiencing difficulty making all their monthly obligations on time. Also, DMP is normally NOT recommended for people who're fully able to make their payments on time and are just looking for a way to reduce the interest they're being charged or for a way to simplify their bill-paying process. There's a short-term derogatory effect on credit reports from being in a DMP so you don't want to enroll in one if you're fully capable of making all your payments on time. From a

credit rating standpoint you would be better served by applying the ADR strategy discussed in Chapter Four.

You need to know that DMP has been specifically designed for UNSECURED creditors. This means that the related indebtedness has no collateral behind it. Accordingly, secured debts such as a mortgage and car loans are NOT eligible for DMP.

Also, it's important to know that the accounts included in the debt consolidation program will be closed for the term of the program but are typically reopened by most creditors upon successful completion. Keep in mind: most DMP programs are designed to last for approximately 60 months.

Most kinds of unsecured indebtedness can be put into Debt Consolidation programs but there ARE some exceptions and your credit counseling agency will need to review your list of creditors.

CHOOSING A CREDIT COUNSELING AGENCY

As noted previously, DMP programs require the assistance of an APPROVED nonprofit agency with the knowledge and experience to work effectively with consumers' creditors according to established industry standards. An APPROVED nonprofit agency is able to obtain concessions from most creditors that are not available directly to consumers. Concessions typically include reduced interest rates and lower monthly payment minimums for an extended period of time up to about five years. The truth is all nonprofit agencies obtain the same concessions from each of the various creditors and your decision to select one agency over any other should be based on a

balance among certain criteria: your perception of their reliability and honesty, the length of time the agency has been in business, the cost of the program, their professionalism, their willingness and compassion to help families, accreditation by an accountability organization such as the Better Business Bureau, etc.

In making your choice you'll want to take into account the fees that the agency will charge you. Just because an agency is a nonprofit organization doesn't mean the service is free. In fact, the best agencies often DO charge fees which allow them to provide fair compensation to their counselors. Keep in mind that a nonprofit organization needs to pay its operating expenses and those costs can only be covered in two ways: by donations (which are almost never adequate to cover all expenses) and by the charging of fees. The agencies with the lowest fees are not necessarily the ones to choose and you should reject the ones with the tricky higher fees. The objective is to find the right balance.

There are two kinds of fees for Debt Consolidation and many states have legislation in place that establishes the amounts that agencies are allowed to charge. There is usually a one-time Enrollment Fee on average nationwide from \$50 to \$100 and a monthly Administrative Fee that averages \$25 to \$50 per month depending upon the state where the agency headquarters is located and on the number of creditors you need to include in your Program. Nevertheless there are frankly a number of agencies in the industry that have developed creative approaches to get around state legislation by offering a "bundle" of related services. But the spirit of state law is that you should be able to receive just the DMP service if that's what you want

without the related services and within the legal fee-setting guidelines. If an agency is trying to sell you a bundle of services and refuses to separate the DMP part with fees that comply with State fee-setting law, that should probably help you make your decision rather quickly. Otherwise, you can wind up paying way more than you have to for a basic DMP service.

Now, if you go on the Internet and look for reputable DMP agencies you'll find literally thousands of them. Most DMP these days originates with an Internet key word search and most consumers go to the top of the first page of the Google list and make their selection. But you need to know something IMPORTANT: the "agencies" most often listed at the top of those lists are often nothing more than very large, well-capitalized REFERRAL agencies that will collect some basic contact information about you and then SELL it to their DMP agency clients that will ultimately contact you and perform the actual service. THIS IS THE PREDOMINANT WAY THE INDUSTRY WORKS. You'll have no idea who will actually return your contact information and perform the enrollment.

The recommendation of this publication is to verify beforehand that the agency you are about to contact is an APPROVED DMP agency that has its own web site and physical location, that has a real street address and that it's registered in good standing with the *Better Business Bureau* or somebody similar. The underlying principle is that an agency with its own lead-generating website will have lower marketing costs than the agency that purchases leads from some referral agency and will tend to charge lower prices to the public. Visit as many web sites as you can of actual nonprofit agencies and make

your selection after doing some due diligence. Call them and ask some questions and see how you feel after you've talked to them. Confirm that the person you're talking to actually works for the agency represented on the web site that drew your attention. After a few minutes of talking you'll know if you want to do business or not. Just follow your heart and use the knowledge you've learned from this publication.

Another recommendation is that you look for a Christian nonprofit organization (preferably a Ministry) to represent you with your creditors. You don't have to be particularly religious to use one and you want to increase the odds that the agency you finally do decide on is honest and dependable and that it advocates for consumers instead of for creditors. But once again you have to be very careful: if you rely on the Internet and you use the search engines like Google and Yahoo, the key word "Christian" will turn up a list of names at the top that are not really Christian. In fact, they're as far from ministry as you can imagine and include many of the same REFERRAL agencies you've already tried to avoid. Just be careful in your search and use the other selection criteria we've already discussed to determine the authenticity of its claim to Christianity.

WHAT TO EXPECT

You will want to talk to a live Counselor in whatever nonprofit Christian agency you ultimately select. Don't try to enroll in a DMP totally on line; you don't want to do it that way because you need the benefit of an experienced, live counselor to help you understand your situation and make the right decisions. The counselor will ask you a few questions to determine the extent of your situation and should offer to prepare a Family Budget at some point in

the process to bring your income and expenditures into balance. If the agency does NOT prepare a Family Budget, you need to go immediately to some other agency. In fact, they should be willing to help you prepare a Family Budget for FREE if you ask them to with no strings attached. The willingness to prepare a Budget is a must because Creditors REQUIRE responsible agencies to provide this service and also because you need it so you can be sure you are planning to live within your means and make all your payments into the Program.

The agency's analysis will also include an estimate of the amount of the monthly payment you'll have to make and a projection of the time required to complete the Program and become debt free. Be careful because there are unscrupulous agencies (not Christian agencies) that grossly understate the monthly payment requirement and then spring the surprise of the real payment once they have received your Enrollment Fee. You may want a second opinion from another agency to insure that the quotations are similar.

Once the counselor has completed the analysis, you'll be advised whether or not the agency recommends that you enter DMP. At that point if the agency accepts you into their program, you should be prepared to pay an Enrollment Fee and sign a Service Agreement committing the agency to their responsibilities and to the date your first monthly payment will be due. Most payments these days are paid by automatic electronic withdrawals from an authorized bank account; neither you nor the agency has time to wait for a personal check (most agencies don't even accept them) and your credit cards will all be in the program. By the way, creditors absolutely hate to have an

Enrollment Fee for a debt consolidation program charged to their credit card right before they're being requested to have that card included in the program. Don't do it because the creditor may disqualify you and the agency might be able to keep your Enrollment Fee.

There will be a number of forms to deal with including an Agreement, a list of Creditors with balances and interest rates, an authorization for the electronic payments and copies of ALL statements of the creditors that are to be included in the program. For a couple of days there's some work to be done but it will end soon enough and you'll be on your way to debt freedom. The faster and more efficiently you work and provide all the information you've been requested to provide, the more quickly the program can take effect. There are no short cuts so don't expect any and you won't be disappointed.

Please be forewarned though: one of the most significant problems we have seen over the years in administering this program to thousands of families is that people are too slow in complying with the administrative requirements. Time is strictly of the essence. Creditor Statements you submit to the Agency MUST BE CURRENT and you must move quickly once you have decided to proceed with the Program. Consumers want to blame the counseling agencies for their enrollment woes but 99% of the time it's not the fault of the agency which is actually as interested as you are in completing the enrollment process ASAP so they can begin to collect their fees to cover their marketing costs and overhead. Therefore, get involved in a DMP with determination written across your game face, focusing on meeting all the administrative requirements in the shortest possible time.

DETERMINING WHICH CREDITORS TO INCLUDE

Normally the best strategy IS to include all unsecured creditors in the DMP except for those accounts which have very low balances and can be paid off easily and quickly and/or those accounts for which payment terms would not be improved by being in the Program. Nevertheless, there are some creditors that will not accept clients in the Program unless all their unsecured creditors have been included. Also, if there are several different credit cards that are owned by the same creditor, the controlling company will probably require all of their related accounts to be included in the program. Your credit counseling agency will help you work this out as soon as they have seen your list of creditors.

Many agencies require their clients to destroy ALL their credit cards when entering their programs. There are some agencies though that will try to work with you to keep one card out of the program for traveling and emergencies with the understanding that the balance will always be paid off at the end of the month. If any of the other creditors object to the one card being withheld though, it will have to be included in the program but the enrolling agency has experience to know if you have any creditors that are likely to object and will advise you appropriately.

CREDIT REPORT QUESTIONS

Many people want to know how a DMP will affect their credit reports and the answer is that it depends on the internal policy of each creditor. There are a number of creditors that won't even report the Program as a negative to the Credit Bureaus. Others, however, will report that you're involved in a "Credit Counseling" program, which

will in all likelihood be viewed negatively by prospective lenders and creditors, at least initially. This will restrict your ability to obtain new credit, which should not be a problem for most DMP families that are serious about becoming debt free. You shouldn't be trying to open new credit accounts anyway, right? Once a DMP client has been able to develop a consistent on-time history of payments into the DMP, any negative connotation will begin to change to a positive.

Upon successful completion of the DMP, it's very likely that any previously reported derogatory information can be removed from your credit reports. Overall, credit reports should be improved from the condition that existed prior to the DMP (or that would have developed had recurring late payments continued). You'll be viewed as more credit worthy upon completion of the Program because your overall debt to income ratio will have improved substantially and because by completing the program you will have demonstrated your reliability. *Make A Way Ministries* has a publication that teaches how to go about the restoration of credit reports on your own. You can contact our office or go directly to www.Amazon.com in search of the following title:

Credit Repair that Reduces Monthly Payments

MORTGAGE FINANCING QUESTIONS

Many families also want to know how the DMP will affect one's ability to finance a new home or refinance an existing one. Once a DMP client has made 12 consecutive on-time monthly payments into the Program, he/she will usually be able to obtain an FHA loan even if the DMP has been reported to the Credit Bureaus. But other types of

mortgages have particular guidelines that apply to families involved in Debt Counseling and must be evaluated on a case-by-case basis taking into account the objectives of each family. Generally speaking, families involved in the Program will find some difficulty in locating conventional home financing, and interest rates will tend to be marginally higher than would otherwise be the case. Therefore as a matter of general financial strategy, it's usually better to obtain any necessary home financing just before enrolling in a DMP. In any event, by making all of your payments into the DMP on time you will be establishing a new on-time payment history that will wind up helping you find a mortgage in the future.

To conclude this chapter, DMP will be a viable program for many consumers. Find a reliable nonprofit agency and go from there. They will be a big help and they will do all your creditor contacts on your behalf. In fact, you may get through the entire program and never have to talk to a creditor. But in case your situation is too far advanced for the DMP strategy, some contact with creditors probably can't be avoided. We have strategies for those scenarios also and in the next chapter we will start preparing you for pursuit of those more difficult situation so you can sail right through them in total victory!

This is the victory that overcomes the world – our Faith.

1 John 5:4

SIX

HOW TO WORK WITH CREDITORS YOURSELF... WHEN YOU'RE FACING PAYMENT PROBLEMS

Most people dread the idea of having to engage in direct communication with their creditors. The reason is that consumers are intimidated by the “power” that creditors are perceived to have in relation to the “vulnerability” they see in themselves as debtors. There’s a Biblical principle that explains this natural reluctance: “the borrower is a slave to the lender” (Proverbs 22:7). That’s why, unless you like feeling vulnerable or enjoy being enslaved, indebtedness is always going to be something to avoid. But the truth is, most people are in debt and most people will eventually at one time or another need to communicate with one or more of their creditors.

Unfortunately, that need to communicate will usually mean that a consumer is experiencing some kind of payment problem, or is about to have a problem in the near future. Most people procrastinate calling their creditors in these situations because they’re expecting confrontation on the other end of the call. Few among us

actually like confrontation. Also, they feel vulnerable because they know almost nothing about the subject of delinquent payments. They don't know how their creditors are going to react to their sudden bad news, they don't know what their rights are in the face of a creditor confrontation, they don't know what their options might be, they don't know if their creditors might be willing to work with them and give some concessions, they don't know what kind of questions their creditors might ask and whether or not they'll be able to answer intelligently, and they're full of fear that one of their creditors will have them in Court next week and take away their house or their car or that their employer will hear that they're having financial problems and terminate their employment, etc.

The truth is, it's time for consumers to begin learning about the financial industry so they can be less fearful and dependent on others and can take a more active role in controlling their own financial destinies. If you contact a creditor rep because you have a financial problem, whose interests do you think the creditor is most likely to be concerned about: yours or the creditor? Yet most consumers who call creditors do so without any knowledge and without much forethought. In fact, most consumers are so intimidated by the very thought of talking to a creditor that they just don't call them or they procrastinate until the problem is several months past due before they finally contact the creditor out of desperation.

The best strategy is ALWAYS to contact a creditor as soon as you first sense you're about to have a payment problem. You have to overcome your intimidation and fear and do what's best for your family which is to talk to your creditor. When you do that early enough, you'll find that most of

the major creditors have a variety of programs that will help you get through the situation. The earlier you call the more willing they will be to agree with your position and try to find a solution. Fear and procrastination is absolutely the worst way to react to a creditor problem.

And so, the purpose of this Chapter is to equip you to deal with your creditors. You could hire a professional but they can be costly and a lot of what they do could be performed by consumers if they would just educate themselves and contact their creditors early enough to ask them what they could do to help you get through your problem.

PREPARING YOURSELF FOR BATTLE

Before talking to your creditors, you need to understand that their employees have been specially trained to take advantage of your vulnerability. They know how to raise the level of intimidation to manipulate you and achieve their objectives. To offset this, there are certain things you can do ahead of time to get ready.

First, realize that you are the customer and your creditor is a business that would like to find a way to accommodate your needs in a way that conforms to their established policies. Most creditors are willing to try to work with you especially in the early stages of a problem. They're also particularly willing to consider meaningful concessions late in the collection process when they're trying to salvage part of what you owe them.

Second, by force of your own will, you must decide not to be intimidated by the person you will have to talk to. You want to control the situation as much as possible rather than allowing them to control you. You can be stern and

forceful without resorting to the abusiveness they may attempt to try on you. If you become angry, you will have lost control of the situation and the creditor will win because your objectives cannot be accomplished with anger. Try to keep in mind that the individual who's trying to intimidate you is probably a clerical employee who has a family and many of the same problems you have.

Third, also keep in mind that if you have a credit problem, you're in the company of the virtual majority of people in America. Millions of people have the same problems you have and you are not strange or a failure just because you have to speak to a creditor's representative.

Fourth, you need to realize that the law establishes and limits what creditors are able to do to enforce their claims. They can't put you in debtors' prison and they can't take away your wife/husband or children. And, in most states they can't take your home away as long as you make your mortgage payments on time. Ultimately, all they really are able to do is just temporarily damage your reputation (and your credit reports), which you can withstand if you have to and then take steps to restore later. They may tell you that if you don't make a payment by this coming Friday they're going to put your account in Collections. So what? If you don't have the money, why care so much about their threats? There's nothing you can presently do about it.

Along with this, you also need to know that even if you're NOT able to make payments on a delinquent account for a while, it takes a relatively long time for the creditor to work through the system and initiate legal action against you. No matter what threats they make, from the time you first develop a payment problem until the creditor can access the legal system and then complete a law suit

against you could easily be more than a year. Relax! Almost anything can happen in a year.

And during that time, the most they can do is ruin your reputation by reporting derogatory information about you to the credit bureaus. Certainly it's desirable to have a good reputation, but it's worth only so much especially if you're temporarily financially unable to protect it. What can you do about it? Many people lose sleep over their reputations and a few in the extreme even consider suicide rather than face a time when their reputations are less than perfect. Whatever the difficulty, it's only temporary. Reputations can be rebuilt and restored IN A RELATIVELY SHORT PERIOD OF TIME. If you realize this, you're less likely to be intimidated by a creditor's clerical employee.

Finally, you need to think through ahead of calling what your objectives are and what you want to say to achieve them. Make some notes and put them in front of you when you make calls to your creditors. Don't go into the conversation cold because the individual you'll be talking to has been trained and knows exactly what to say to pressure you and get more than you really want to concede. If you're momentarily thrown off the track during the conversation, politely terminate it so you can have time to think through the point and then call back later.

Preparing for battle is about preparing your mind and how you think about things. Prepare your mind for the battle and you stand an excellent chance of winning the war.

ANTICIPATING LATE PAYMENTS

If for some reason you ever find that you need to make a payment late (beyond the due date), the cardinal rule (as

we keep emphasizing) is to call your creditor(s) as soon as you realize you have a problem to explain your situation. A telephone call is much more effective for this purpose than a letter. Unfortunately, most people don't do either one so later on they're forced to take whatever the creditor imposes. If you call them from the outset of the problem, you establish initial control; and if your situation is only temporary, most creditors will try to work something out for you. Many of them may not even charge you a late-fee if you quickly resume regular on-time payments.

When you call, simply explain that you'll be paying a little late because of a temporary situation. PLEASE avoid going into all those many details about your problem! The creditor will ask you when you're planning to resume normal payments so be prepared with your answer to this question ahead of time. They're not interested so much in WHY you're going to be late; but they ARE singularly interested in knowing the date you plan on making your catch up payment. If you don't yet know the answer, simply tell them you intend to bring your account up to date within the next 30 days and that you'll call them back if anything changes.

And by all means be sure to call them back if the situation continues longer than you originally expected and stated to them. The creditor will NOT forget what you said previously because each time you call them, the customer service employee enters a summary of your comments in their computer data record for future reference.

For temporary situations, an early call can make a big difference and head off a negative report to the credit bureaus. So don't procrastinate that initial contact.

As time goes on, say more than a month, the creditor will become more interested in WHY you're not able to make your payments. And you'll be interested in what kind of programs they have to give you some help. Most creditors DO have programs. Most unsecured creditors ARE willing to reduce interest charges typically for up to six months if you can demonstrate that you would be able to start making monthly payments again after the six months. But you HAVE to talk to them about it and you HAVE to ask intelligent questions. Anticipate their willingness to reduce interest rates to help you out temporarily especially if you made your initial contact with them when you first anticipated a payment problem. Don't let them forget that you did that by the way; REMIND the representative you talk to each time that you were the one who made the initial contact at the very beginning of your problem. Creditors appreciate that you had enough courage and consideration for your situation to call in early about your problem. It's been demonstrated statistically that consumers who call in early are MORE responsible than the average run-of-the-mill public that typically calls much later if ever.

So, anticipate any coming late payments and call your creditors BEFORE your due date, BEFORE your payment is late, and let them know about it. Early advice will almost ALWAYS work to your benefit.

HANDLING DELINQUENT ACCOUNTS

As a general framework, if your delinquency exceeds 30 days, you'll start receiving increasingly nasty letters. If it exceeds 60 days, you'll start receiving telephone calls and if it exceeds 120 days, your account will be turned over to

the creditor's collection department. The fact that you made an initial call when your problems started will have decreasing value as to how you'll now be treated by the creditor. And they won't care what the reasons were, no matter how sad or how you had no control over the circumstances that caused your payment problems. And they don't really care that you may have a 20-year history of paying them on time. They just want their money NOW and they have a set of policies and procedures that dictate how they will proceed.

Following are some suggestions for how to handle your situation with creditors according to the type of account, secured or unsecured. They are very different situations:

Secured Creditors

The most difficult of all the folks to deal with are secured creditors, like your home mortgage company or the company you make your automobile payments to. In these cases, if you don't make your payments as agreed, the creditors can proceed to recover the related assets, the collateral. Historically, they're not particularly motivated to make concessions if you get in trouble. So, you should always give a higher priority to the payment of these kinds of accounts over unsecured creditors.

In the event you become delinquent to a secured creditor, it's extremely important to contact them before they initiate foreclosure or repossession action. If you do, they'll usually allow you to reschedule your delinquent balance over a period of time, sometimes up to several months, by adding a prorated amount of the delinquency to your normal monthly payments in the future. You will probably be charged some additional collection fees, which will be

included in the new payments. After the delinquency has been recovered, your monthly payments will normally revert back to the original amount.

If you do not contact your secured creditors before the repossession action has been initiated, they'll usually not consider anything other than a lump sum payment of the delinquency and you may also have to pay something to obtain new financing even if you do make the lump sum settlement. Otherwise, they'll probably proceed with the foreclosure or the repossession because they now consider you to be a high-risk consumer.

One thing you should be aware of is that among the various kinds of secured creditors, mortgage lenders are the most open to some kind of arrangement. This is a holdover from the Great Recession days of 2007-2011 and it's still possible to arrange Mortgage Modifications for cases where the unexpected development of an economic hardship can be demonstrated. If you're about to have trouble making your mortgage payments, it's doubly important to contact your lender at the earliest possibility. Later on in this publication, we have included a chapter on how to pursue a Mortgage Modification yourself.

In sum, you need to be really informed about this subject, which can be a little complicated, so you can come out of your problem in the best possible condition. You do NOT necessarily have to just allow your Lender to dictate how your mortgage problem is going to be resolved if you're fully conversant on all the various options the Lender has at its disposal.

Now with regard to car loans, one important thing to know is that the repossession people will be looking for your car

after you've missed two payments. You should be talking to them about your problem long before you reach that point so you can find out what your options are and whether or not your auto-loan lender is open to some kind of loan modification arrangement. If you can demonstrate that you only have a temporary cash flow the lender may even let you skip a month or two to help you get back on your feet.

Unsecured Creditors

Dealing with unsecured creditors like banks, gasoline and department store charge cards, AMEX, VISA, MASTER-CARD, etc. when you're delinquent offers a wide range of opportunity to negotiate temporary concessions. But the experience may prove to be more unpleasant than with Secured Creditors. Since unsecured creditors have NO collateral protection for recovery of your indebtedness, they often make a more vigorous effort to threaten and intimidate.

Nevertheless, the facts are that most of them will reduce your minimum monthly payments for a specified period of time if you tell them in a timely way you're going through a TEMPORARY financial problem. They want to hear you say that your problem is TEMPORARY and you expect for it to end in perhaps 30 to 60 days or so. They won't want to reduce your monthly payments, but they will if you press them a little. And they'll also consider reducing or eliminating further interest accumulation during the temporary recovery period if you ask them to. You can expect a reduced payment term of up to six months after which most creditors will expect you to revert back to a regular minimum monthly payment. Sometimes you'll find

some unsecured creditors open to a second period of interest reduction if your Family Budget shows you're not able to resume normal monthly payments. They WILL ask you for a budget, so look organized and be ready.

It should be noted here that there's a difference between the type of arrangement you can negotiate personally and one that a non-profit DMP consolidator is able to secure on your behalf. The difference is that the one you arrange on your own will be temporary and the unsecured creditors will start pressuring you again if you're not able to resume normal payments after the established concession period has ended. The non-profit debt consolidator, on the other hand, will be able to obtain long-term concessions. If your financial difficulty is truly temporary and expected to last for only a short period of time, it's worth a try to do it yourself. If you're unsuccessful, you can then always go to a debt counseling agency later.

To arrive at some arrangement with an unsecured creditor, you would contact a customer service representative by telephone to advise that you're experiencing a TEMPORARY situation requiring you to reduce or skip your monthly payment. Start calling them from the beginning of the payment problem even though they may not want to actually help you until your account is 1-2 payments past due. If you've talked to them from the beginning, they'll be more likely to help eventually and they may not even report the special payment plan to the credit bureaus. Even if they do, it's not a seriously negative entry as long as you make your payments as agreed and eventually get caught up.

If problems with unsecured creditors become more serious than just a temporary situation and are leading to a collection process, you can expect your creditors to initiate increasingly hostile telephone calls and letters. Most creditors will try to collect past due balances for a “reasonable” period of time through their normal accounts receivable department. If not successful, they’ll turn your account over to their special collections department, which will step up the pressure and try to intimidate you into borrowing money from other sources to pay off the indebtedness you have with them. Try to avoid doing that by stating simply that you do not have any other sources of credit, family or anybody else.

If they’re still not successful in pressuring you to pay, your creditor might then turn your account over to a professional collection agency that is paid a commission on what they collect (or they may have purchased your account outright). You want to have contacted a non-profit counseling agency BEFORE this happens. Collection agencies are the masters of intimidation and once they get into the picture, your account(s) may not be eligible for certain programs the non-profit agencies could have arranged for you.

If you find yourself in a collections process, you need to know that Federal legislation (Fair Debt Collection Practices Act) prohibits creditors and collection agents from threatening or harassing consumers even though many of them routinely violate the spirit and even the letter of the law. For example, if creditors call you before 8:00 am or after 9:00 p.m., or if they call you at work after you’ve informed them that your employer does not allow you to accept such calls, they’re in violation of federal law.

And there are a number of other legal prohibitions governing the conduct of creditors. If they violate the law, you can report them to the Federal Trade Commission. If you mention to them that you're prepared to record your conversation and to report them to the FTC, they'll usually discontinue any illegal conduct. If they don't heed your warning, go ahead and report them or contact a professional non-profit debt counselor for assistance. You'll find a copy of the related legislation included in the appendix of this Report. Make use of it and feel free to call us if you have a question or an overwhelming problem.

We've also included a special section in the next chapter called *Special Tips for Dealing with Collection Agencies*. You do NOT have to put up with all the harassment if you know the law and you use it to protect yourself. And it's not hard to do. Quote the law in writing to a Collection Agency and they WILL leave you alone.

In sum, when talking to creditors maintain your composure, avoid getting angry, don't hang up on anybody, keep in mind you're speaking to a clerical employee who's trying to intimidate you into making a payment but who's open to listen to and consider well thought-out explanations and proposals and has programs available for you to ask about. Usually you WILL have to ask about those programs to find out about them so play the game and ask about everything. Avoid getting overly detailed about your problems and it will help you win the battle. And, always keep in mind that everything you say will be noted in your file. Above all, call your creditors when you first see a problem coming on and it will greatly help your cause.

A certain moneylender had two debtors. One owed five hundred denarii, and the other fifty. When they could not pay, he cancelled the debt of both.

Luke 7:41-42

SEVEN

THE NEGOTIATED DEBT REPAYMENT STRATEGY

If you've already been through a time of credit difficulty, you may have accounts that are in "collection" or have been "charged off" after the creditors made repeated unsuccessful attempts to collect your delinquent balances. These *derogatory* entries on your credit reports are considered to be very negative and will have caused your FICO Scores to decrease.

The term "collection" means that your account is extremely delinquent and that the creditor is engaged in a formal "collection process" prior to taking some final action against you. You would have trouble buying or refinancing a house while it remains on your credit reports. Certainly, even if you were able to arrange financing through a "hard money lender," the interest rate would be unfavorably affected and you would have to put up a substantial down payment.

If after repeated effort the creditor isn't successful in getting you to make payments against your delinquency, it has essentially two alternatives: it can initiate a legal

proceeding against you in the Courts or it can “charge off” your account and report that action to the credit bureaus. Other than Bankruptcy or a Judgment, an unpaid “charge off” is the most negative entry you can have in your credit history. The creditor makes a decision between these two alternatives based on several economic parameters: (1) the gross amount of the indebtedness, (2) the likelihood of recovery through a legal action and (3) the cost of taking you to court. A creditor is more likely to “charge off” the account if the indebtedness is relatively small or if it perceives it has a low probability of recovery vis-à-vis the related legal and court costs.

The term “charge off” (aka P and L) on your credit reports means that your account has already been through a collection process, that the creditor was not able to arrange the related payment and that it has elected, for the moment, not to pursue you through the legal system. For tax purposes, the creditor has taken a tax reducing operating credit for the “bad debt” and no longer carries your account in its Accounts Receivables. Hence, it has been “charged off.”

You should know, however, that the creditor could at some later date reverse this decision and take you to court if it became aware of any change in the economic parameters to its favor and if the legal statute of limitations for your state has not expired (consult an attorney or look on line to find out about the statute of limitations in your state). Once an account has gone into collection or charge off status, the only good news about it is that most creditors become open to negotiated settlements.

Your credit reports will have become TEMPORARILY ruined, but you may be able to pursue a settlement for 40

or 50 cents on the dollar or even less if the account is relatively old or if you can demonstrate a financial hardship. Normally, creditors will require you to make a one-time payment to settle the account; and if you've been able to accumulate some funds, you could take advantage of the creditor's willingness to settle.

Even if you haven't been able to accumulate the funds, many creditors are willing to accept a relatively short repayment plan with no further interest accumulation and with a reduction in the amount of your indebtedness. At first, they'll resist such a proposal, but if you persist and refuse to pay anything unless they accept your proposal, they'll eventually accept it, especially if you offer a partial "down payment" of any relatively meaningful amount and then pay off the balance in 3 or 4 monthly payments.

You'll want to stipulate in your proposal a condition for the creditor to remove all negative information from your credit reports. Most of them will refuse to agree to it and the best you can expect is their agreement to advise the credit bureaus that the account was "settled for less than the outstanding balance." But it doesn't hurt anything to ask. In any event, a settled charge off will re-establish your ability to obtain house and automobile financing at reasonable interest rates if your monthly payments on your other accounts have been made on time.

You should always make your proposals in writing and insist on written responses. Most correspondence for this type of debt settlement is exchanged by fax. NEVER send any creditor any money until you have received their approval of the arrangement you're willing to work under in WRITING. No exceptions!

ESTABLISHING YOUR NEGOTIATING STRATEGY

Before you make your first phone contact with your creditor, think through what you want to propose and where you want to wind up. You will be negotiating with an “opponent” who seems to have all the advantages on their side. But that’s not fully factual because you have some advantages also if you know what they are and how to use them. Here are some examples:

1. You are the customer and a profit center for your creditor. They want to keep your business for the long term and are highly motivated by potential profit.
2. Consequently, they want to find a way to accommodate your situation within reason and according to their policy restrictions.
3. There’s a certain amount of social pressure on large lending institutions to be “merciful” when unforeseen economic or medical circumstances affect a consumer’s ability to pay their debts. Consequently, they want to find a way to help you for public relations reasons.
4. Of course, the creditor can always initiate a lawsuit against you to try to reach a point where they have the legal system forcing you to make court-ordered payments. But there’s a cost for them to use that approach and within reason they would rather find some solution short of taking legal action.
5. The creditor is very much aware that if they push you too hard, you can always declare personal bankruptcy that will permanently wipe away the debt you owe them. If that happens they won’t realize any financial benefit at all and will have to incur some amount of

related legal costs in the process of dealing with your bankruptcy.

IMPLEMENTING YOUR NEGOTIATING STRATEGY

So, keep these points in mind as you approach a negotiation. You DON'T start out by threatening the creditor with bankruptcy but you DO let it be known subtly that you are aware of the federal bankruptcy law and that you know your rights. Your position is that you want to AVOID bankruptcy as a matter of principle and you need the creditor's help to make that happen. You also want to leave the impression that you want to repay your indebtedness, that your economic problems are TEMPORARY and that you're OPTIMISTIC that with a little help from the creditor, you'll expect to overcome your problems in the very near future.

You will also want to have prepared your Family Budget before your first call. You want to be able to show that it will be approximately in balance if they would just make the concession(s) you're recommending for a relatively short period of time until you can get your financial affairs back in order.

Another thing you want to do before making that first telephone contact is to write a DRAFT letter to your creditor no more than one page in length. In this letter you will describe in one paragraph with no more than three or four sentences the economic HARSHIP that caused you to default on your payments and wind up in Collection. Do not go into excessive detail. You can do that on the phone as necessary but be careful not to give them more info than they ask for. Spontaneously volunteering information that hasn't been requested gets a lot of people in trouble.

It's way better to answer their questions then to over-describe your situation and cause them to ask even more questions.

Have the draft of your hardship letter in front of you when you make your first call so that you can tell a consistent story. The draft letter helps you organize your thoughts before the call and establishes a basis for consistency. Stick to your script. Later on you'll need to update your letter when it's time to submit your official proposal and fax it to them. Most creditors prefer faxes to emails but you can ask them which they prefer. If they don't ask for a WRITTEN proposal or hardship explanation, don't send it. In sum, as a general negotiating principle, don't give them any information they haven't asked for. Assume that the creditor will not forget anything you say and that they're recording every comment you make somewhere in your file. And that requires that you be truthful in every statement you ever make. If they catch you in an exaggeration or misstatement, your proposal will probably be dead-on-arrival.

So, what should your objective be? You should have that in mind BEFORE you call your creditor. As a rule of thumb you should try for a settlement that is about 50 percent or slightly less than the outstanding balance. You won't always be successful but experience shows that most creditors will eventually accept fifty cents on the dollar for outstanding debts in collection or charge off status. The older the debt the more likely you are to arrange a settlement for at least this amount of discount or even more.

To help your negotiation get the best results, you should find out what the statute of limitations is for civil lawsuits

in your state. Let's say for example that it's five years which would mean that a creditor has five years from the date of your last payment to initiate a lawsuit. If they go beyond that date, they lose the right to sue you which would give you a stronger negotiating position. You need to know the legal status of your debt and you can usually find the date of last payment on your credit reports.

Another thing to know is that your original creditor will only try for a certain period of time, according to their policy, to collect from you before they either sue you or sell the debt to a collection agent. They can also "assign" your debt to a collection agent but usually they are sold. You should know that collection agents usually pay the original creditors less than ten cents on the dollar for outstanding debts so they don't have a lot invested and are often willing to accept deep discounts to settle defaulted accounts. However, there are some who are very aggressive even to the point of initiating a law suit if the statute of limitations hasn't already passed by.

Therefore, when you make your first call, you'll want to let them know that you are experiencing a difficult financial hardship giving the reasons why it happened. You'll also want them to know that you need their help to get back on your feet and that you have no other means of raising the funds to pay off the debt in full. The purpose of this approach is to discourage the creditor from initiating a lawsuit and to charge it off instead. If they believe you're insolvent, they are less likely to initiate a law suit.

You can also mention that you thought about going into *bankruptcy* when your problem first developed, but it's against your principles not to pay your debts and you have managed to survive somehow by force of will and good

‘luck.’ You’re optimistic for the future and with a little help from the creditor, you think you can get back on your feet soon. The objective here is to let them know you’re nearly financially destitute so they won’t want to sue you or force you into *bankruptcy*. By taking this approach you will have mentioned bankruptcy in a passive way in order to let them know you are an informed consumer aware of your rights under federal bankruptcy law instead of threatening them with it directly.

Based on the 50% objective, I would suggest that you start by asking them how much of a discount they will offer you to make a settlement. They will probably want you to make the first offer in which case you could offer to pay 35% of the outstanding balance. Then let them come back to you with a counter offer. After that you keep negotiating with them until you hopefully arrive at the 45-50% objective (or whatever). If you don’t have that much money saved, don’t let them be aware of that until you know how much they’re willing to settle for. If you don’t have enough for a lump sum payment, they’re likely to be willing to enter into a short-term payment plan of up to three or four monthly payments without charging additional interest. If you’re not able to afford what they offer, request a longer payment plan which they may accept if you can let them know you some money to pay down immediately upon their agreement to accept the settlement.

The guidelines in this chapter are SUGGESTIONS based on many years of arranging settlements for clients. They won’t always work out the way you want, but often they DO work and you’ll have the pleasure of achieving your objective. If you DO reach an agreement, you must REQUIRE the creditor to confirm it in writing. Their letter

to you should specify the amount(s) you are to pay and that upon completion of those payments, the creditor will: (1) consider that the debt has been satisfied in full, and (2) they will provide you with a Satisfaction Letter at the end of the repayment term.

Sometimes they may ask you to submit your offer in writing and if you ever do that, your letter should include these two demands on the creditor as part of your offer. Nothing should ever be pursued without WRITTEN confirmation. Creditors are used to this and the only reason they would object is if they plan to go back on their word in the future. Your settlement involves MONEY. Related offers, acceptances and agreements should always be in writing at least by simple letters showing signatures of responsible parties to the arrangements.

In the event you aren't able to come to terms that are acceptable to you, you should simply and politely inform the creditor that you aren't able to pay what they're asking and could they please call you back when they can come up with an offer that comes closer to your ability to pay. If they haven't called you back within thirty days, you should contact them again and ask if their settlement terms have changed yet.

SPECIAL TIPS FOR DEALING WITH COLLECTION AGENCIES

A Collection Agency is a company that specializes in collecting past due debts. Your original creditors will often sell or assign your uncollected accounts to a Collection Agency after having tried for a time without success to collect what you owe. They add on interest and other fees and cause your indebtedness to increase significantly, at

least on paper. Collection Agencies know how to intimidate consumers and threaten consequences that are sometimes border-line illegal. But they're effective because consumers are largely uniformed, passive, easy to intimidate and ready for victimization.

But you don't have to be a victim even though you may be going through hard times. We've included at the end of this publication some discussions and exhibits on federal laws so you can learn what your rights are. And in this section we're providing some ideas for dealing with these folks when they call assuming that you don't have funds available to settle the related debts. If you are in that situation and collection agents start calling, according to federal law you don't have to listen to or even receive their unpleasant telephone calls. Study and become informed so you can win the battle even though you're having to deal with a difficult situation.

Challenge the accuracy of the claim in writing. If you don't challenge the accuracy of a collection agent's claim in writing, the law may later assume that you agree with it but are just ignoring it. And you must challenge it within the stipulated time frame called for in the Collection Agency's notice. Do NOT ignore the written notices; read and understand them and then take action. After a few ignored written notices the Collection Agency will have irrefutable ammunition to file a legal claim against you.

Make your challenge as simple as possible. Don't provide any details. Example: You could simply write by hand in red or blue ink on the face of their letter the following: "*This is wrong. Further letters will be considered illegal harassment.*"

The more professional thing to do would be to type a simple letter along the same lines. Sign it, date it and mail it certified to the address on the letter. Be sure to keep a copy. Or faxing your notice would also work if your faxing system confirms the successful receipt of it by the receiving faxing service. Collection agencies are heavily regulated and harassment is a crime with serious penalties to the collection agency. After you challenge the claim, the Collection Agency can be required to provide some source document(s) from the original creditor to prove their claim. A previous invoice from the original company that says "payment due" is insufficient legal proof. To prove their case in Court, they'll need to present a contract with your signature on it and proof that you did not fulfill the contract. This is time consuming and costly for the collection agency. And, the Collection agencies almost never are in possession of these documents. Most likely even your original creditor will have trouble producing the necessary written documents. That's why you will want to demand it from them if the case goes any further. You are entitled by federal law to see such documentation. So, it's in the collection agency's best interest if you don't challenge their claim in writing by requesting original documentation.

Debts lose value as they age. If you make any partial payment after they contact you (to show good faith or in response to their intimidation), you start the clock ticking again at zero. Why? Your state has a statute of limitations after which debts no longer have legal status and the Credit Bureaus also are limited to seven years in the publishing of negative information about you. Any kind of interim payment will restart the countdown and

strengthen the Collection agency's legal position. The value of your account will have gone up. And, most likely they will be more aggressive in collecting the full amount of your debt. If your debt is old, say six months or more, the collection agency probably acquired the debt at a steep discount. If you make a payment or sign a written statement agreeing that the claim is correct, the Collection Agency has increased the value to them of your debt.

When collection agents call, don't give them any details. Also, ask them to send their communications in writing. Tell them NOT to call you again and hang up immediately.

The caller will say anything to try to prevent you from hanging up. It costs the Collection Agency more to communicate in writing. It's almost always to your disadvantage to talk to a Collection Agency on the phone. Most of these folks are trained in tricks to intimidate you. These guys are pro's. They do it eight hours a day. They can say things to intimidate you, and then deny it later. They can't deny a written statement. The people on the phone most likely can't send anything to you in writing anyway.

Don't trust anything they say on the phone. It's not legally binding until it's in writing.

DISADVANTAGES OF NEGOTIATED DEBT SETTLEMENTS

When many consumers hear that they can have half or more of their indebtedness forgiven, they become excited thinking they have come upon a way to get something for nothing. To be sure, there are many credit counseling agencies these days that will advise consumers who don't

even have a delinquent payment problem yet to stop paying on their accounts and allow them to go into collection so they can become eligible for negotiated debt settlements. These agencies however are giving counsel that is often not in the best interests of their clients and they are failing to tell them the complete story. Following is the truth that everyone should consider before deciding on this debt relief strategy:

1. When a settlement is negotiated, the client's credit reports will carry a notation that the account was paid off for less than the original amount. This is better than having an unpaid collection or charge off on the report, but it is not better than just having a few late payment notations. Your FICO Scores will be slower to recover from a negotiated debt settlement than from a limited number of late payments.
2. If you're only in the early stages of a payment problem and your FICO Scores are still high, you will have to stop paying your creditors for several months in order to qualify for a negotiated debt settlement. This will cause a significant deterioration of your credit rating to a lower level than would have been the case had you sought temporary relief from budget counseling or a DMP by a non-profit agency.
3. You need to also be aware that creditors are not bound by any convention or law to enter into a debt settlement negotiation. If they suspect it is to their benefit, they may prefer to force you into a law suit instead of accepting your settlement offer. By that time it will be too late to go a different route and you could have to go through with a bankruptcy to protect your family. The

statute of limitations for the publishing of bankruptcy information on credit reports is 10 years. And don't forget the cost of the bankruptcy attorney you'll need.

4. It is also possible that a creditor will go ahead and obtain a Summary Judgment against you before entering into a debt settlement agreement. While your record will show that the Judgment was satisfied, it's a matter of Public Record and may be nearly impossible to remove from your credit report prior to the 7-year statute of limitations. Nevertheless, the fact that your report shows that the Judgment has been satisfied will make it possible for you to open lines of credit, like for example a home mortgage.
5. The counseling agency offering negotiated debt settlements may tell their clients that they will remove all the negative information in the aftermath of a debt settlement negotiation but the truth is there is no way to force the creditors to stop reporting all the negative information your strategy has generated. In fact, it is **UNLIKELY**. They will report that the accounts have been settled but they very well may continue to report related information about it serving to depress your FICO Scores for a few years down the road.
6. During the time that your credit rating is in decline, don't forget that other interested parties have access to your credit reports. These interested parties include landlords, employers, insurance companies and other creditors including your mortgage company if you own a house. Prior to allowing their credit ratings to be destroyed, consumers should review their Mortgage Agreements and other creditor documents to find out what the penalties are if those other creditors should

decide that the economic status of their customers has undergone a material deterioration since credit was originally granted. In such cases where the economic status of a consumer is perceived to have undergone a significant deterioration, creditors may have the right to cancel further credit privileges and call in the outstanding balances for immediate pay off.

7. Credit counseling agencies also often fail to advise their clients that the amounts forgiven by creditors through negotiated debt settlements in excess of \$600.00 may be reported as income by those creditors to the Internal Revenue Service. It should be mentioned in the DISCLOSURE section of their Agreements but the counseling agencies failed to call attention to it and their clients don't notice it before they sign the Agreements. Accordingly, many consumers are surprised when they receive IRS Form 1099 from their former creditors that shows additional taxable income must be accounted for when their next tax returns are filed. Under the law the amount forgiven is considered to be ordinary income and is therefore taxed at the appropriate marginal rate for your revised income bracket. If the additional tax cannot be paid by the established due date, the taxpayer will be subject to interest and possible penalties eventually amounting to a substantial portion of the savings from the negotiated debt settlement. If a consumer is delinquent in the payment of those taxes, IRS becomes the new collection agency but IRS has absolute legal power and authority. Delinquent taxpayers can have liens filed against them by IRS, which will stay on the record long past the settlement date. They can also be garnished directly by IRS without going through the Court system that would

apply to all other kinds of indebtedness. Future tax refunds, if any, will automatically be confiscated and applied to the delinquent tax. In short, it is unadvisable to get into a delinquency problem with IRS. Avoid it at all costs! On the other hand, IRS is always open to settlements if you can demonstrate economic hardship. Offer them twenty cents on the dollar to settle through an Offer in Compromise and see what happens.

8. During the waiting period as settlements are being negotiated or have to be driven into further delinquent status before a favorable settlement can be reached, creditor balances may increase due to the possible continuance of finance charges and late penalties. So it must be remembered that the eventual balance from which the creditor will offer the discount in exchange for a lump sum payoff could be significantly higher than the amount at the beginning of the process. Where it may seem like a 50% discount for example, it may in effect be more like 20% when you consider the original balance.

Because of these considerations, we recommend negotiated debt settlements to only those clients whose accounts have already gone to collection or charge off. Prior to that having occurred, there's usually a better strategy for the long-term interests of the family.

In Christ are hidden all the treasures of wisdom and knowledge.

Colossians 2:3

EIGHT

THE HOME FINANCING STRATEGY

If you're a home owner, it's possible with some careful planning and unwavering commitment to your debt repayment program to use your home in combination with other strategies to get to debt freedom even earlier. In other words, you may be able to use your largest family asset in a strategic way to get out of debt even more quickly than would otherwise be possible.

When you made out your list of creditors back in *Chapter Four* for the *Accelerated Debt Repayment Strategy*, you probably listed your home mortgage at the bottom of the list because it has the highest outstanding balance. Since it's at the bottom of the list, there will be a tendency not to look at it until all the creditors on the list above your mortgage have been paid off. However, you actually need to consider the status of your mortgage from the very beginning and determine how it might be able to help you in the overall context of your debt repayment program. In fact, there could be action you need to take with your mortgage **BEFORE** embarking on some of the other strategies covered in this publication.

REFINANCING

Let's say for example that when you originally financed your home, the mortgage interest you obtained then was higher than current prevailing rates. You can go to the Internet and easily find out what the current average interest rates are for 30-year FHA and conventional mortgages and compare what you find to your current mortgage. If you could reduce your monthly payment by refinancing your mortgage and you have a favorable credit rating, you might want to pursue refinancing and apply the amount saved to your monthly debt repayment.

Going after the refinancing first would be appropriate if you were going to enter into one of the other debt repayment strategies that would negatively affect your credit rating. For example, if you wanted to enter into the DMP Strategy discussed in Chapter Five, you would want to get your home refinanced BEFORE you get into DMP because your credit rating would be adversely affected in the short term to the point that you might not be able to qualify for refinancing at a low enough interest rate.

For the best interest rate, you'll need a middle FICO Score (among the three credit bureaus) of at least 620 for an FHA Mortgage and 720 for a Conventional Mortgage. The latter type is best because you won't have to pay the additional mortgage insurance that's added onto the monthly FHA payment. Of course, mortgage requirements are subject to change at any time and what we're telling you in this publication should be re-verified before you make any decisions. If you need to raise your middle FICO Score, you can purchase the following book at www.Amazon.com:

Credit Repair that Reduces Monthly Payments

DEBT CONSOLIDATION

In the foregoing example, the objective was to refinance your home with the objective of obtaining a lower interest rate and applying the difference to the repayment of your other debts. But there is yet another way to use a home financing strategy to your benefit. Why not use the EQUITY in your home to pay down your high-interest credit cards?

The difference between the appraised market value of your home and the balance owed on your mortgage(s) is called EQUITY. If you have equity in your home, there are ways to use it to help with paying off all your indebtedness in a shorter time frame.

How is that possible? Your home mortgage will normally have a lower interest rate than your other debts. What if you could lower the interest rate on your other debts down to the level of your mortgage? Would that not result in a faster pay down of all your indebtedness? Of course it would and here's how you do it assuming that your credit rating is good enough for you to qualify to refinance your existing mortgage(s).

You would apply to refinance your home mortgage but with a request to take out a certain amount of equity that you'll use to pay off some of your other debts. This is called a CASH OUT REFINANCE and the lender will want to know why you are requesting the cash. You have a good answer ready and the lender is more likely to go along with your request if they can be assured the CASH OUT will be used to pay other debts. You could even tell them that you would be happy to pay on those debts simultaneously with the closing your new mortgage.

Normally, we don't usually recommend using home equity for paying down unsecured debt. The reason is that most consumers after they wind up with a refinanced mortgage and have paid down all or most of their accounts soon start going back into unsecured debt and within 18 months wind up back where they started with unsecured debt but with a much higher mortgage payment as well. Don't take this approach unless you're totally COMMITTED to using it as a stepping stone to eventual and complete debt freedom. That's why we ask you at the beginning to make an irrevocable decision to never go back to using debt, FOREVER AND EVER.

By the way, another way to approach this strategy is to request a Line of Credit on your house. The bank may want to do it that way because a Line of Credit is often secured by a second mortgage which may carry a higher interest rate. Because of that you will want to request the refinanced First Mortgage even though it may have higher closing costs and takes more time. Just take the best deal.

With any kind of refinance project, we usually recommend starting with the bank where you presently have your First Mortgage. It will usually be quicker for them to approve it than some bank that's never seen you before, and the closing costs are likely to be lower as well. Nevertheless, if your current bank doesn't want to meet your requirements, there are plenty of banks in the marketplace that will be eager to help you.

You can use this approach as long as the new mortgage interest rate is SUBSTANTIALLY lower the average interest rate of the unsecured debt you will paying off. As this publication is being written (April 2017) the average family with a good credit rating is paying an average interest on

credit cards of about 12 to 15 percent and the average First Mortgage rate for the same family is about 4.25 percent. As you can see the potential savings is SIGNIFICANT.

As soon as you've completed the refinance and paid off some of your creditors, the next thing you'll need to do is reconstruct your list of remaining creditors, from lowest balance down to high balance with your mortgage most likely at the bottom

Another thing to consider is that when you receive a lump sum amount of money as you would from a CASH OUT refinance to apply to your debt repayment program, you should apply the funds to pay off those creditors that will have the most significant impact on your total monthly debt payment. In other words, pay off those creditors that will DECREASE your total monthly payment the most without regard necessarily for whether they are low or high balance creditors.

Follow these basic guidelines and your home equity can be a big help in accelerating the repayment of your creditors.

***The one who gets wisdom loves life;
the one who cherishes understanding will soon prosper.***

Proverbs 19:8

NINE

THE HOME BASED BUSINESS STRATEGY

One strategy that most people usually don't consider as they're setting up their debt repayment programs is the possibility of setting up a home-based business. Although home-based businesses are the fastest growing part of the U.S. small-business sector, most families haven't really thought it all the way through, even families who're already working out of their homes on a regular basis.

There are two major financial reasons for establishing a home-based business. One is the possibility of generating an operating income and the other is the certainty of being able to deduct business-related operating costs for the purpose of reducing personal income tax. What most families are overlooking is the second of these reasons and it's particularly appropriate as a debt repayment strategy: increase tax deductions to decrease the amount of personal tax in order to increase available cash flow.

The fact is, EVERY family in America should consider starting a small business as a way of reducing their taxes

so funds can be directed to the repayment of indebtedness and later on to the expansion of retirement savings. This is a really important idea that should be emphasized: virtually ALL families should consider OWNING A HOME BASED BUSINESS FOR THE PURPOSE OF TAX OPTIMIZATION.

Indeed, the U.S. Congress and the U.S. Internal Revenue Service have structured our tax code to favor and encourage the formation of small businesses. Why then do we not position ourselves to get the maximum benefit out of the economic system that's been set up? Why would we insist in paying more taxes than we legally have to by ignoring a principal means that's been created and endorsed by government precisely for the purpose of encouraging American entrepreneurship through the incentive of paying lower taxes? The right to pay lower taxes has been specifically granted because it has been concluded that small business creation is more valuable to the country's economy than overpaying income tax.

The fact is, it's EASY to set up a home-based business. But it needs to be a formal business that's registered with your home state and in possession of its own checking account in the name of the company. The first step is to decide on what your company should do, and then you think up a catchy, creative name. After that, you contact the Secretary of State in your state capital to find out if your catchy name is available. If it is, you register it and pay the related fee. Once officially registered, you can go to the bank and open a bank checking account in the name of the company totally SEPARATE from your personal bank accounts. Just go on line and determine exactly how and where to register your new business.

TYPES OF ORGANIZATION

One of the questions you'll face as you start forming your new business is which type of organization you should use. Many small businesses start out as Sole Proprietorships and then graduate into a more sophisticated form after the business has proven itself. They can also start out in one of the other forms depending upon the circumstances. It is recommended that you purchase our publication on this subject by going to *www.amazon.com*:

Employee to Employer in 90 Days

Following are the various types of organization that are covered more fully in the other publication:

Sole Proprietorship
General Partnership
C-Type Corporation
S-Type Corporation
Limited Liability Company
Limited Partnership

You can start any small business almost immediately as a Sole Proprietor simply by registering a DBA in your state and opening a bank account. Then you can change later to another business type once you've become established.

Most people wind up in an S-Type Corporation either from the start or later on after a time as a Sole Proprietor. Keep in mind that the formation of any corporation is a process that you'll probably need some help with. And, it requires quite a bit more administrative knowledge to manage than a Sole Proprietorship. The main purpose of incorporating is to protect your family from legal liability.

EFFECT ON PERSONAL INCOME TAX

Following is a TYPICAL comparison to show the effect on federal tax from owning your own home-based business. Keep in mind that the comparison is for a full-time employee of a company receiving a W-2 form at the end of the year for income tax accountability. The W-2 income from the employer is \$30,000 per year and the registered home-based business is assumed to make NO income:

	<u>Employee Only</u>	<u>Small Business Owner (DBA)</u>
Revenue:		
Salary from W-2 Employer	\$30,000	30,000
Income from Own Business (Small Business assumed to break even)	- 0 -	- 0 -
Business Deductions:		
Business Trips (vacation)	- 0 -	2,000
Children on Payroll	- 0 -	4,000
Automobile	- 0 -	4,000
Office in Home	- 0 -	3,000
Entertainment (one-half)	- 0 -	2,000
Purchase of Equipment	- 0 -	5,000
Miscellaneous	- 0 -	2,000
Adjusted Gross Income:	\$30,000	8,000
Federal Taxes:		
Income Taxes	2,800	- 0 -
Social Security	2,250	1,200
Total Taxes Paid	5,050	1,200

The illustration shows that the tax savings from operating a business out of this family's home while continuing to

work for a W-2 employer was \$3,850 (\$5,050 minus \$1,200) via the tax reduction from taking advantage of LEGAL small business deductions to reduce the amount of income that is subject to taxation.⁶ The entire savings of \$3,850 is available to be applied to the debt repayment program as extra payment

According to IRS Tax Regulations the small business owner is allowed to take business deductions when the following criteria are met:

- The deductions are legal
- The deductions are ordinary for the industry
- The deductions are reasonable
- The deductions are for necessary expenses

Just so you know, there are presently more than 120 legal tax deductions for small businesses embedded somewhere in the 93 thousand pages of the IRS Tax Code. So, the foregoing example only scratches the surface of what small business people can learn about tax optimization ethically and legally in a way that increases the economic performance of the United States.

In sum, it would be poor stewardship of God's money to not start a small business unless of course He's telling you not to for other reasons. Pray about it, take it to the Lord and if He releases you into small business ownership, you could join the millions of people who're taking this route to make more funds available to their families through the reduction of their taxes.

⁶ Ibid

TOP 55 IDEAS FOR SMALL BUSINESS STARTUPS⁷

Following is a list of the most popular small business ideas with an expected startup cost of less than \$5,000. Use it to stimulate your thinking for your own company.

GROUP ONE:

\$1,500 or less to start up

Accountant	Home Inspection
Boat Cleaning	Household Organizer
Bicycle Repair	Import/Export Specialist
Business Plan Service	Interior Decorator
Chimney Sweep	Jewelry Making
Cleaning Service	Marketing Copy Writer
Computer Repair	Notary
Consultant	Personal Concierge
Dog Breeder	Personal Trainer
EBay Assistant	Property Manager
Editorial Services	Small Engine Repair
Electronics Repair	Solar Energy Consultant
Event Planning	Tax Preparer
Expert Witness service	Taxidermist
Financial Planner	Upholstering
Flea Market	Used Book Sales
Golf Coach	

GROUP TWO:

\$1,500 TO \$3,000 to start up

Appliance Repair	Herbal Farm Stand
Computer Training	Landscaper

⁷ <https://www.entrepreneur.com/article/201588>

Desktop Publisher
Fence Installation
Freelance Graphics Designer
Gift Basket Service
Graffiti Removal
Hairstylist

Massage Therapist
Moving Service
Music Lessons
Photographer
Rug Cleaning
Website Developer

GROUP THREE:
\$3,000 TO \$5,000 to start up

Bed and Breakfast
Christmas Sales
Day Care
Pet Sitting

Certainly this isn't an exhaustive list but it should get you thinking. Compare this list to things you're passionate about or that occupy your thoughts or that might already involve you in some kind of hobby. The ones you think up can probably be implemented with little to no cost. Pray about it and ask the Lord what He wants you to do for the Kingdom. But before you start something, be SURE about what you want to do, sure enough to invest adequate time in getting yourself prepared to be a success.⁸

⁸ Excerpted from: "55 Surefire Home Based Businesses You Can Start for Under \$5,000." By *Entrepreneur Press & Cheryl Kimball* (2009).

***For those who find me find life and receive favor from the
Lord.***

Proverbs 8:35

TEN

THE MORTGAGE MODIFICATION STRATEGY

This chapter is for families who're facing foreclosure keeping in mind that it should be dealt with at the outset of your debt repayment program. Definitely the imminent possibility of foreclosure on one's family home is a traumatic experience because if you're like most people, you've worked all your life to own your home and you're scared of the financial system that could come and take it away from you. But the truth is, most people who're facing foreclosure are feeling too fearful, too depressed, too timid and too powerless which will have to be overcome too if you really want to save your home. You just need to become familiar with the system and find out what your options are. And, there are ALWAYS options because money's involved.

SOME IMPORTANT BASICS

A delinquency in the payment of a mortgage is historically the most serious kind of nonpayment that a consumer can have because a mortgage is a debt that's secured by the family's home, and the family's home is usually its most

significant asset. *Secured* means that the debt has collateral behind it as compared to say a credit card which is usually an *unsecured* debt with no collateral. Accordingly, the consequence of mortgage delinquency can be severe with the end result being the loss of the property through a foreclosure process causing a serious long-term derailment of a family's entire financial structure.

A *foreclosure* occurs when the Lender cancels the related mortgage on the grounds of nonpayment and calls for the immediate payoff in full of the outstanding balance. The payoff balance will include the addition of late fees and foreclosure costs. If the homeowner is unable to pay off the balance of record, the lender will proceed to take possession of the collateral which is the home itself. In order to do that, the lender will file a lawsuit asking the Court to give its permission to the lender to take over the property and dispose of it in the manner prescribed by state law. That's usually done by public auction with the lender having the first priority for proceeds from the sale.

From 2008 to 2011 the United States experienced a severe Recession with the greatest number of residential foreclosures since the Great Depression of the 1930's. In connection with that, residential properties decreased in value across the country on average by more than 50%. Although the economic environment has greatly improved and property values have largely recovered, lenders are still dealing even in 2017 with a relatively high number of foreclosures. The reasons include continuing family financial problems that despite the end of the recession have persisted because of a sluggish personal income recovery coupled with insecurity in the jobs environment.

In sum, it's not as uncommon as it was prior to 2008 for families to have to default on their home mortgages and if that's your situation, you're among what is still a large group of American homeowners. But what you may not know is that there are constructive ways to deal with it and come out of top! And, as you go through this Chapter, try to keep in mind a very important foundational piece of information that works strongly in the Borrower's favor and will apply to everything we consider:

Mortgage Lenders would rather not have to foreclose on a home because it's an expensive and time consuming process.

The truth is, Lenders are typically poor property managers and they know that if they have to repossess a property, it will deteriorate and decline in value because it may be sitting unoccupied for a considerable period of time until finally it can be sold. And they know as well that when a repossessed property is finally resold, the sale frequently does not generate enough revenue to cover the total amount the consumer owes much less all the additional costs they've had to incur through the foreclosure process.

The bottom line is that generally Lenders would like to find a way to keep defaulted borrowers in their homes.

Contrary to popular belief Lenders are not staying up nights thinking of ways to take over consumers' homes so they can make a lot of extra money. So, when they do finally come to a decision to repossess one, it's really as a last resort after they've reminded the Borrower a number of times without success of the need to bring the debt current and to contact them to discuss alternatives. The truth is most borrowers simply dodge their Lenders and

resist making contact until their problem has progressed for two or three months and the pressure is mounting on the Lender to find a solution. As has been repeatedly pointed out, avoiding your Lender is the WRONG strategy if you want to be a winner in a contest of foreclosure.

Despite the wishes of Lenders to not foreclose and the desires of most families to maintain possession of their homes, millions of foreclosures have in fact occurred in the last several years and they will continue to occur for the next few years to come if families don't change the way they're trying to deal with this challenge.

Therefore, the purpose of this Chapter is to provide information and education that will help families overcome foreclosures by the most popular of the various options: a MORTGAGE MODIFICATION. Millions of families have wanted one but almost none of them knew what they were doing. The result has been that millions of homes have been foreclosed over the last nine years or so even though lenders were prepared to work out a Mortgage Modification. But they're not going to show you how to do it because they don't have time. That's why a number of families have had to exhaust their remaining savings to hire expensive professionals to represent them with their Lenders. Many others tried for extended periods of time to get their own modifications because they couldn't afford the expensive professionals but most of the time they were declined by their Lenders and lost their homes to foreclosure. Why? Because the Borrowers didn't know how to make their proposals, they didn't do the work correctly and they didn't submit it by the deadline(s) the lenders had requested. Administrative failures are NOT permitted!

In sum, Mortgage Modifications are indeed a viable option for avoiding foreclosure. But consumers have lacked the basic knowledge they needed and could have had:

In the World financial system, it is the responsibility of defaulting borrowers to go and get their modifications; it is not the responsibility of Lenders to give away mortgage modifications to people who don't understand the system and fail to adhere exactly to the lender's requirements.

Aggressive and well-informed consumers who refuse to give up WILL usually get their Mortgage Modifications and this publication WILL be a big help if you learn what's here and follow it EXACTLY.

UNDERSTANDING THE FORECLOSURE PROCESS

Lenders are not all the same but generally speaking their foreclosure process typically goes something like the following summary:

1. When a borrower passes 30 days of delinquency, the Mortgage Lender will soon send a letter reminding the borrower that the payment is late and a related late fee has been imposed which is often 5% of the payment. Delinquency by 60 days will usually result in a repeat of this same basic action. Both letters will request the borrower to contact the Customer Service Department to discuss any problems the consumer is experiencing.
2. After the mortgage payment reaches 90 days late, the Mortgage Lender will send the borrower a formal notice declaring that the loan is in default. This is called a *Notice of Default* and it will state that foreclosure proceedings will soon begin unless payment is received.

Once again the borrower will be invited to contact the lender's office to discuss ways to deal with any financial problems that have caused the default. Borrowers are often too intimidated by the process to discuss them with the lender and don't call them. *Big Mistake!*

3. After the Mortgage Lender sends the *Notice of Default*, the borrower will usually have approximately 90 additional days to "cure" the default and reinstate the loan including remittance of all the missed payments, late fees and any other charges the Lender has imposed according to agreement.
4. If after the additional 90 days the loan has not been cured, the Mortgage Lender will usually file a lawsuit asking that the property be taken away from the borrower by court order, sold to the highest bidder and that any interest the borrower has in the property be "foreclosed." In most cases, a *Court Summons* is served on the homeowner, which permits the borrower to file a written response with the Clerk of the designated Court within about 20 to 30 calendar days, depending upon the state and the court.
5. If the borrower doesn't file a written defense with the court within the stated period, the case will be automatically scheduled for a future hearing with a *Motion for Summary Judgment of Foreclosure* submitted by the Lender to the Court.
6. If there is no defense from the Borrower, the judge will then order that the mortgage be foreclosed and that a date for sale be set. The *Notice of Sale* is then published and the property is considered to be ready for sale to the highest bidder on the *Sale Date*.

The point of summarizing this process is so you can see that from the time you miss your first mortgage payment, the better part of a year could pass before the foreclosed house is finally scheduled for sale. At any point in that process even up to the day the property is to finally be sold, the Borrower can recover the home by curing the default and arriving at an agreement with the Lender for an alternative course of action. So you'll have quite a bit of time to work this out and a Mortgage Modification is just such an alternative course of action.

HOW TO SLOW DOWN THE PROCESS

A *Mortgage Modification* is defined as a PERMANENT change in the terms of repaying the loan that the Lender agrees to in order to avoid having to take over the property. The Borrower applies for the change according to the administrative procedure established by each Lender. Then the Lender eventually agrees to new mortgage terms if it thinks the change is in its interests instead of continuing the Foreclosure Process

The effect of applying for a *Mortgage Modification* when you're just beginning to miss those first two payments will usually work to slow down the Foreclosure Process. One thing you need to know is that once you default on your mortgage, your Lender's Legal Department will initiate their foreclosure process and it will plod along step by step. But you'll be simultaneously negotiating with your Lender's *Loss Mitigation Department* to have your mortgage modified. The two processes (Legal and Modification) will proceed in parallel but there will be a tendency for the Legal Process to slow down if you're making a good faith attempt to work out a modification. Remember: your

Lender would rather find a way to avoid the foreclosure and they will keep trying to find a way to accommodate a modification if you're aggressively seeking one and staying on top of your application process. If you miss a deadline even by one day or fail to perform your responsibilities EXACTLY as requested by the Lender, the result will be the cancellation of the Modification Process while the Legal Process will accelerate toward eventual showdown in Court.

The bottom line is this: most uninformed consumers are in a state of panic when they start talking to their Lenders and they think they only have a few weeks before the Foreclosure Process takes away their homes and kicks them out in the street. So, there's a lot of pressure and anxiety that causes many folks to make bad decisions out of fear or to give up when they still have a chance to win. As you can now see, you have a lot of time to work on your Mortgage Modification and by knowing this, you can gain the upper hand with your Lender and be in relative control of your destiny.

OBTAINING THE MORTGAGE MODIFICATION YOURSELF

A lot of people aren't able to afford a professional's fees to get a mortgage modification moving. If they could come up with the fees they wouldn't have had a payment problem with their mortgage. Accordingly, the objective of this Section is to provide some general information to help you assemble a complete proposal package for a Mortgage Modification. In the process of learning and using this information you'll save yourself from \$1,500 to \$5,000, even up to \$20,000 or more for a specialized attorney to perform this same work.

The main reasons a Professional counseling agency is usually needed to put together a mortgage modification proposal package are: 1) the borrower doesn't know anything about the subject, 2) the borrower is petrified with fear at the thought of having to deal directly with his/her Lender. There's also a lot of fear about the possibility of losing the family home so it's assumed it will take a professional to manage this kind of high level responsibility and convince Lenders to do the right thing. And, 3) it takes from 70 to 100 or more man-hours to assemble, submit and follow up the proposal package that can easily be 50 to 100 pages in length. But, if you're determined and committed to doing this yourself so you can save a bunch of money, you CAN do this!

The terms and conditions of a Mortgage include the repayment term and the interest rate you're being charged for the use of the Lender's money. When you borrowed that money, you had to "qualify" for the mortgage by meeting certain financial criteria established by either a regulatory agency such as Fannie Mae and by the banking industry itself. When the Lender agreed to lend you the money, you met the criteria and the Lender's underwriters determined you to be a reasonable risk in accordance with the terms and conditions of the mortgage. The higher the risk for the Lender, the higher the interest rate you were required to pay over the term of the mortgage. The fact is you accepted those terms and conditions, you were approved for the mortgage on that basis and the deal was closed.

A factor working in your favor is that most of the big Lenders are still under pressure from the government to accommodate their borrowers as much as possible. This is because they accepted loans and bail out money during

the Recession to keep from going bankrupt (some had to go through bankruptcy anyway or merge with a stronger organization) and so they're expected to use what they've been "given" to make loans and keep the economy moving. This works directionally to your benefit by causing your Lender to accept an arrangement that just a few years ago before the Recession they wouldn't have even considered. Don't forget this point as you negotiate with your Lender.

In pursuing a Loan Modification you'll be putting together a proposal package that contains several forms and documents. For most people this is probably a revelation, but you don't just pick up the telephone one day, have a conversation with a representative of your Lending Company and then suddenly you're given a Mortgage Modification. It's a process, a lot of paperwork is involved, and time passes before it's approved, usually several months. Although the specific format of the proposal package varies among the Lenders, the information provided in it is basically the same for all of them

Following here is a generic series of steps for putting together a killer Mortgage Modification proposal.

Step 1 – Prepare a Financial Worksheet

The first thing you need to do is prepare a Financial Worksheet, AKA a Family Budget. Most families in America don't have a budget but you should have one in hand before you make that first call to your Lender. The reason is that you want to know exactly where you stand financially so you'll be able to answer your Lender's initial questions accurately and consistently from the very outset. A word of warning: be careful with what you say because every comment you make will be remembered and

recorded in your case history by the representative you'll be talking to. Do NOT over-explain your situation and don't volunteer information about you and/or your family they haven't asked for. Force them to ask their questions so you know what they want before you speak.

Discrepancies between what you say at the beginning and what you say later will be questioned and re-verified. If you say something about your financial situation in the beginning that turns out to be inaccurate even though unintentional, it could cause your proposal to be turned down. It's very important to be truthful, accurate and consistent all the way through the process and having the budget available at the beginning could be VERY instrumental in achieving those objectives.

Lenders are most interested in the family's income situation. They want to be sure that if they agree to modify your mortgage, you will have the ability to pay the new amount so they won't have to go through another foreclosure scenario with you in a few months. Unfortunately, national statistics show a relatively high failure rate for people who had their mortgages modified since the Recession began to manifest in early 2008. Since those early days Lenders have learned that they should be checking carefully on your income information to be relatively certain of your ability to pay your new payments over the future term of your modified mortgage.

Another reason for having your budget in hand before you call the Lender is that you want to know exactly where you stand before you make any statements to them over the phone about your financial condition. Also, your Family Budget will have to balance two conclusions: it must show that you WILL have the ability to pay your proposed new

mortgage amount but that you're NOT able to pay the current monthly payment you're telling them you can no longer afford. You'll need to show a Budget that's approximately a break-even AFTER including the proposed mortgage payment. Your budget could be a little on the positive side or a little on the negative and be acceptable but you must somehow find the right balance between the ability to pay the new one and your inability to pay the old one. Don't exaggerate on anything!

One of the main things a Lender will be looking at is the amount of your mortgage payment as a percentage of your current GROSS income. The national guideline is 31 percent of GROSS income (before any deductions) so if your current mortgage payment is say 40% of your current GROSS income, the Lender should be willing to take a look at a lower payment that could bring your budget into a more viable relationship that's closer to 31%.

Lenders will also be looking at all your other indebtedness too including car payments and in particular credit cards. If you have a lot of credit card debt your Mortgage Lender may very well ask you to enroll in some kind of counseling program and/or to make it very clear how you're going to be able to pay your revised mortgage payment in the face of all the other monthly payments you have to make. Generally Lenders will be concerned if total monthly DEBT payments including the mortgage and credit cards exceed a guideline of 45-47% of GROSS income. Be ready to explain a higher percentage so the Lender can see how you're going to be able to make all your payments. And don't forget to tell your Lender at some point that you value your mortgage payment as the highest priority of all your monthly payments and that if you have to default on

anything, you would default on your credit cards first. Please take away the following understanding:

Your Family Budget will prove to be one of the most important considerations in the entire Mortgage Modification process and you would do well not to underestimate either the importance of this exercise or the Lender's determination to CLOSELY review your monthly living expenses.

It's certainly possible that your Lender won't ask you any questions when you first talk about your personal finances. But you need to be ready because many of them WILL ask in order to test your preparation and your understanding of what you're asking them to do. You need to establish a measure of control over this process anyway instead of just conceding it to your Lender. Just use the Family Budget form included in Chapter Four and be ready for the next step.

Step 2 – Prepare a Preliminary Hardship Letter

When you contact your Lender, you'll either be advising them that you're in "imminent danger of being delinquent" if you haven't missed a payment yet, or you'll be calling to CONFIRM that you have a temporary cash flow problem in order to explain why you've already missed a payment or two. All through this publication we're recommending that the borrower contact the Lender even before there's a missed payment if you can see it coming because by delaying you lose a measure of control over your situation. If you're already late with your payments then you're more at the mercy of what the Lender wants to do. But even if your payments are already late two or three months before

you make your first call, it's not too late to request a Mortgage Modification.

One of the main questions the Lender is going to ask you in that first conversation is this:

What happened in your life to make it necessary for you to have a payment problem?

You need to have a good, direct, articulate and plausible story ready and you need to answer this question without stumbling around all over the place and talking about your Aunt Nellie and that Uncle John died last year or all the details of your most recent illness, etc. Avoid all those details that have nothing to do with the Lender and tell them succinctly and truthfully why you're not able to make your payments.

In that answer you'll be trying to establish that you're experiencing an *"unexpected financial hardship"* that makes it impossible for you to make your scheduled mortgage payments. If you lost some income or if you experienced a particular medical hardship that had an impact on your income, the Lender will certainly take those things into account. In sum, there are two types of hardship that will be viewed with the most favor: economic hardship and medical hardship in relation to your inability to keep up with your old mortgage payments.

Therefore, BEFORE you make your first call you should have prepared a DRAFT Hardship Letter to the Lender to help you organize and direct your thoughts into a brief but effective summary of your financial situation. Included at the end of this Section is an example of a simple, one-page (8.5 x 11 size) letter which is all you need. The Lender doesn't have time to read a 10-page summary with all the

little details, so just please accept the fact that this is what you'll need. The complete letter should cover the following points keeping in mind that you will be sending it later to the Lender as a key part of your proposal package:

- Make a simple statement that you're seeking a permanent modification of your existing mortgage, indicate the address of the property and the related loan number.
- Include simple statements of the causes of your current economic hardship assigning the cause to the economy, lost income, inability to refinance your existing mortgage or whatever other pertinent causes have led to your situation that were beyond your control.
- The Hardship Letter should also include a short statement requesting the Lender to review the proposal package accompanying your letter with the objective of securing a modification of your current mortgage.
- And finally, the draft Hardship Letter should refer to a couple of the specific terms and conditions you're requesting including the repayment term (usually 30 or even 40 years) and the proposed new interest rate. Keep in mind that all Lenders are familiar with the federal guideline previously mentioned which says that your total housing cost including principle, interest, property taxes, homeowners insurance and any homeowner association fees should not exceed 31% of the family's gross income (income before taxes and deductions). Keep your request in the vicinity of that number and you'll have a better chance of having your proposal approved.

Keep in mind also as you prepare your Hardship Letter and as you discuss your situation with the Lender's Loss Mitigation Officer that you'll be required to document your financial hardship. Resist making emotional statements or over reaching in describing your situation to the point that it can't be documented later on. In short, do NOT make statements that you're guessing about or that you can't document.

Step 3 – Call Your Lender

As previously recommended, you should make your first call to your Lender at the first sign of a problem. Perhaps income has been suddenly reduced or you have a variable rate mortgage that's about to reset to an interest rate and monthly payment you know you won't be able to afford. Instead of just sitting there waiting for something to happen, take control of the situation and call your Lender to let them know what's going on. Many borrowers are afraid to call their Lenders thinking that if they let them know there's a problem developing, they might start foreclosure or raise their interest rate or report them to the credit bureaus. Usually none of that is going to happen; in fact, most Lenders want to hear from their borrowers as early as possible so they can discuss the full range of possible alternatives with them to avoid foreclosure.

When you make the first call you should ask for the "Loss Mitigation Department." They will probably ask if you're already delinquent with your mortgage payments and since hopefully you'll be calling before you have missed a payment, the person that receives your initial call may not want to transfer you to Loss Mitigation. They will want you to talk to the *Customer Service Department*. In most Lender

organizations the *Customer Service Department* isn't fully familiar with their own company's policies for dealing with severe payment issues and you're likely to get wrong answers. Nevertheless, tell whomever you do get transferred to that you're "*in imminent danger of becoming delinquent*" and that you request to be put in contact with the *Loss Mitigation Department* to find out what programs they're offering so you can assess your future options.

You may have to wait on HOLD for a while but be patient and soon enough someone will come on the line to speak to you. As soon as you begin the conversation, make a point of confirming the Lender Rep's name and employee ID number and let them know you're writing down this information for your records. Then simply tell the Rep in similar words that you're "*in imminent danger of becoming delinquent*" and that you would like to know what programs are available that could possibly help you so you won't lose your home.

What you'll want to find out at the outset is whether or not your particular lender will consider allowing you to enter a Mortgage Modification Program before you're actually delinquent in your payments. There are two groups of lenders: some will allow you to enter Modification if you can confirm for them that you're truly in "*imminent danger*" of missing a payment; the other group will want you to have actually missed at least two payments before they will talk to you about it.

If it turns out that your Lender is in the first group, request them to send you a copy of their Loan Modification Application package so you can start putting together your proposal package. Most Lenders have one available for downloading on-line at their website.

If they're in the second group however, you'll need to consider the following:

- If you can actually make your regular mortgage payments, you need to go ahead and pay them because if you withhold them just to become delinquent, you could be in trouble later if your Budget reveals to the Lender that you were financially able to have made the payments. The question is this: is your cash flow sufficient to cover all your obligations based on a reasonable budget? If it is sufficient and your Family Budget shows you should be able to make your mortgage payments, you're obligated legally and ethically to go ahead and make them. Whatever you do, remember that you will have to document whatever you say. They won't just take your word for it that you can't make your payments. They will want to know why and they will want to know what changed so that now you're suddenly not able to make your mortgage payments.
- If you're truly not able to make your payments then you'll soon reach the point where your situation will be sufficiently delinquent for a Mortgage Modification. While you're waiting for that to happen, you should QUIETLY set aside in a separate savings account as much of your payment as you can afford to begin building a contingency account. Sometimes it's easier to get approval for a Mortgage Modification if you've been able to save an upfront down payment that you can offer to the Lender toward the end of the negotiation. And also, while you're waiting, you should be in frequent contact with your Lender so you can keep them advised of your status and find out about

your pending request for their Mortgage Modification. You should be in contact with your appointed Case Manager in the lender's Loss Mitigation Department on a weekly basis. Weekly contact is absolutely CRITICAL!

Step 4 – Decide on the Terms and Conditions to Propose

Before you can put your proposal package together you'll have to determine the specifics of what you'll be asking for so you can influence the Lender's evaluation process. There are essentially four (4) variables in a mortgage that are open to modification: the interest rate, the manner of charging the interest (fixed rate or variable), the outstanding balance and the repayment term. Here's the way to go about determining your specific proposal:

- If you have a variable rate mortgage in the old mortgage, you'll want to propose a fixed rate for the entire term of the modified mortgage. Nevertheless, some modified interest rates have tended to be fixed for about the first five years with gradual increases up to a conservative lifetime cap of no more than about two or three percentage points above the starting rate.
- Regarding a new interest rate, you won't be able to propose some ridiculously low rate and expect it to be approved. The Lender will be looking at their return verses the alternative of foreclosing and taking away your home. If the interest you want them to charge you is too low, then the alternative of foreclosing becomes more attractive. A good rule of thumb is to go on the Internet and find out what the LIBOR one-year index is and add at least 2 percentage points to that index to

arrive at an interest rate the Lender will favorably consider. If this amount results in a monthly payment that's still too high for your budget, you could propose that the Lender lower or even suspend your interest charges for a period of 3 to 5 years and resume with a fair interest rate thereafter say 5-6% for the remainder of the term. In 3 to 5 years your cash flow problems will hopefully be ancient history and you'll be on your way to a full and complete recovery.

- The Lender may want to add all your arrearage including late fees and any related foreclosure costs, onto the back end of your mortgage. Your position should be that you would prefer to have a mortgage balance of no more than 90% of the current appraised value of your home. That's a reasonable proposal. Therefore, it will be necessary in many cases for the Lender to consider forgiving a portion of the outstanding balance in order to bring the new arrangement into proper balance. If the Lender isn't willing to do this, the borrower should consider a different option instead of subjecting themselves to a new mortgage that will be out of balance for years to come. In fact, the preferable option in many such cases would be a Short Sale. Unfortunately though many borrowers are emotionally tied to their houses and wind up settling for modified loan balances that are far too high, significantly higher than the value of the asset. In sum, the truth is this: most of the time it will be nearly impossible to arrange for a reduction of the principle balance. The Lender would rather reduce the interest rate and/or extend the repayment term even up to 40 years.

- No matter how much time is remaining on your existing mortgage, you'll want to propose a new 30-year term. Or, if your Lender is open to it, you could even propose a 40-year term. The longer the term the lower your monthly payment will be. If down the road you want to pay it off ahead of time, you could make extra principle payments but the objective for right now is to get the lowest possible monthly payment for the modified mortgage and save your home from foreclosure.

Step 5 – Assemble Your Loan Modification Application Package

Your Loan Modification Application will consist of several documents and forms including your Hardship Letter. There is no universal proposal package that all lenders use so each of them will have its own requirements. Find out how to access their package, download a hard copy, make a copy to use as a draft document and then go through their instructions step-by-step.

You must provide ALL the information they request and the lender will want you to submit it probably by fax all at the same time, fully completed with nothing missing, on or before the OFFICIAL due date. If you are one day late with the package many lenders will disqualify you. If you submit information different from what's been requested, you may be disqualified. It's not so much that the process is difficult but that it's administratively and time challenging. Nobody said it will be easy to do it yourself but it will be cheaper.

Most of the Lender applications will request personal information about you that should be sent with the

Application documents. Let's call them ATTACHMENTS. Following is a list of the most common documents requested as attachments to the Application for a Mortgage Modification that you could be ready with so you don't lose any time:

Attachments

- ✓ Last two years Form 1040 Federal Income Tax Returns
- ✓ Pay Stubs for the last two months (each borrower)
- ✓ Bank Statements for last six months
- ✓ Copy of recent mortgage statement from your Lender
- ✓ Copy of your Homeowner Insurance Policy
- ✓ Copy of your Driver License

After faxing something to your lender, ALWAYS call your Case Manager to confirm to them that you faxed it and to question whether or not it was received. Keep calling on a daily basis until the Case Manager can confirm that he/she has received your proposal package and that it has been entered into their system. Ask the Case Manager how long it will be until they will be ready to discuss your Application and then take note of the date. Keep on calling them on at least a weekly basis until they get back to you. Every time you talk to someone, take note of their name and make detailed notes after you hang up to document what was discussed and what actions were decided on.

When your application is finally approved, you will be sent provisional modification documents inviting you to participate in a Trial Modification for three or four months. The monthly payment during the Trial will be very close to the amount they are considering for a permanent modification. You will have to make all your Trial payments on or before the due date to demonstrate that

you can afford the payment they are thinking about. If you are even one-day late with any Trial payment, the Lender could cancel the Trial and deny you're Application. Late payments on NOT an option when you're going through this process.

At the end of the Trial if you made all your monthly payments on time, you'll receive permanent modification documents to review and sign. You must read every word in those documents because banks frequently make mistakes that you will want to have corrected. BEFORE you sign the documents you should call your Case Manager to discuss any questions. You must follow their directions EXACTLY. Be sure to confirm where on the documents they want you to sign and what name(s) EXACTLY they want you to use. You will have to make those signings in the presence of a notary so you need to confirm beforehand exactly where the Notary signs and NOT let that person sign in the wrong place to disqualify your Modification. All of these details are really critically important and we have seen Applications denied over such technicalities that required the Borrowers to start over their whole Modification process. Please pay attention to the details!

It's important to take note of the following point: experience shows that the most frequent reason proposals are denied is not because they didn't have merit. It's because the borrowers failed to keep on top of the administrative process. Banks frequently make mistakes on these documents but it's your responsibility to find the big ones. Yes, it's difficult but you should be able to stay on top of this for a few weeks and then celebrate when it's all over!

(Example Hardship Letter)

BORROWERS' NAME

Date:

RE: REQUEST FOR A MORTGAGE MODIFICATION

Loan Number: _____
Borrower Name: _____
Property Address: _____

Attention: Loss Mitigation Department

Please be advised that we are applying for a modification of the subject mortgage because of a personal hardship situation that has resulted from the following causes:

- A significant reduction of the appraised value of our property
- An increase in monthly payments due to interest rate increases
- An inability to refinance this property in order to obtain an affordable monthly payment
- An inability to find a buyer due to a high inventory of similar properties in our market
- Less than expected family income due to _____

Based on these unavoidable factors outside of our control, it is requested that you review the attached loan modification proposal package which includes all relevant personal financial and property information to facilitate your consideration.

You will find that we are requesting a reduction and related deferment of interest and/or principal in connection with the amended and modified note. In this regard, it serves the interest of all parties to preserve the integrity of the bank's note and collateral through the

proposed loan modification in order to avoid further delay and more costly loss mitigation alternatives including foreclosure, forced sale, real estate vacancy, etc.

We will greatly appreciate your consideration of the following key modified terms and conditions as discussed further in the attachments to this letter:

- Reduce the interest rate to 2 percent for a specified period to be determined
- Establish a new mortgage term of 40 years

Thank you for your consideration of this request. We look forward to your questions and comments in the near future because the desire of our hearts is to remain living in our home.

Respectively yours,

John Q. Borrower

OTHER OPTIONS YOU SHOULD KNOW ABOUT

As you probably know a Mortgage Modification is only one of the options available for dealing with the foreclosure process. It's been the most publicized and probably the most popular as well because most people want to stay in their homes and the banking industry is finally geared up (as much as they're going to be) to take you through the modification process. Many of their employees you'll have to deal with haven't been adequately trained and you can get one answer to a question on one call and another answer from some other banking rep on the same day. This is just something you'll have to deal with and if you don't get the right answer to something on the first try, don't be reluctant to hang up the phone and call back to speak to another rep.

In any event, you need to know that a Mortgage Modification is not your only alternative for avoiding foreclosure even though it's the main focus of this publication. Therefore, following is a brief discussion on each of the other major options:

1. Refinance the Mortgage

For this option to be possible you'll have to still have equity in your home which means that it's appraised value is higher than the outstanding balance of your existing mortgage. If you've not yet defaulted on your mortgage payments you'll need a FICO Score of 620 and residual equity of 5-10 percent of the appraised value AFTER it's refinanced for an FHA mortgage and a 720 FICO Score with residual equity of 15-20 percent for a conventional Fannie Mae-type mortgage.

If you're in the refinance category you should also look into the *Making Home Affordable Refinance Program*. It's called HARP and you should be able to find out more information at the following official web site:

www.makinghomeaffordable.gov.

If you have already missed some mortgage payments, you can consider a "hard equity lender." To qualify for the related loan, the ratio of your mortgage loan divided by the appraised value of the property must typically be no more than 60%. The interest rate will be relatively high therefore the mortgage payment will most likely increase. So it should be determined first whether the new mortgage payment will even be affordable.

2. Forbearance

The way Forbearance works is that your Lender will agree to give you a temporary time of lower mortgage payments, say 4 to 6 months to give you a chance to catch up. But the difference between the amount of the temporary payment and what the payment should have been during those months will have to be repaid immediately. The way it typically works is that after the temporary period of lower payments, your payment will go back to what it was before the Forbearance was started PLUS a pro-rata portion of that difference you didn't have to pay. So, after the temporary period of lower payments, your mortgage payment will actually be higher for some specified period of time than it was before you entered the Program because you'll be paying back the amount of the Lender's concession over say six months or however long a period of time you were able to negotiate.

This would be a good program if your payment problem is only temporary and you expect to get back to normal after a few months. It won't work for long-term problems but Lenders will try to get you to accept this when you first call them if you're not informed and watching out for what they're recommending to you. MANY consumers have enrolled in Forbearance Programs by Lender employees only to find out later that when it's over in a few months they're expected to pay back the difference.

3. Negotiate a "Short Sale" with the Lender

The borrower can determine if the Mortgage Lender is willing to consider a "short sale". A true Short Sale is where the property is sold to a third party for less than what is owed and the Mortgage Lender agrees to forgive the balance. There is no deficiency balance if it's a true Short Sale. The borrower will have to provide documentation to prove hardship so that the Mortgage Lender will be willing to consider this option.

One major point is that any balance written off by the Mortgage Lender will be reported to the IRS via Form 1099. This is considered miscellaneous income that must be filed with the borrowers Tax Return but IRS has adopted special TEMPORARY regulations to forgive the additional taxes on this type of income for family residences. This is an increasingly popular approach for defaulting homeowners who're severely upside down. But be sure to consult your tax professional.

Also, in most Short Sale scenarios it will be necessary to list your home for sale through the Multiple Listings for a period of time. The Lender may require it as part of a due diligence process to determine the real market value of

your property. You should seek out a real estate agent who has had experience with Short Sales because there are many good agents who have no idea how to negotiate Short Sales. They will need the skill and experience to negotiate with prospective buyers AND with your Lender in order to close a sale so don't just list you home with anybody.

In addition, you should know that Lenders have been VERY slow to consider and approve Short Sale offers so you should be prepared for a drawn out process including the loss of some buyer prospects because the Lender doesn't react quickly enough.

By the way there's no reason why you can't apply for and pursue a Mortgage Modification at the same time you're trying to carry out a Short Sale. If anything it will just serve to delay even more the legal *Foreclosure Process* we discussed at the outset of this Chapter that's progressing in parallel with all your defensive efforts.

4. Negotiate a Deed in Lieu of Foreclosure

If the borrower has come to the point of being unable to continue making payments and hasn't been able to sell the property, which in most cases is due to the debt owed on the property being too much higher than the appraised value, it can be suggested to the Mortgage Lender that it take a "deed in lieu of foreclosure." In this arrangement the title to the property is transferred to the Mortgage Lender in exchange for the Lender's agreement to forego the foreclosure and to not pursue a deficiency judgment against the borrower. A particular Lender may be more receptive to this option if it perceives that the Borrower is prepared to find an attorney and resist the Lender's foreclosure process. It will be up to you to make your

Lender aware that you know what your options are and that you will employ an attorney if you need one to protect yourself. Borrowers need to demonstrate that they're knowledgeable!

Not all Lenders will accept the *deed in lieu of foreclosure* alternative, especially if the borrower has other assets and the Lender believes it can collect against a deficiency judgment. Also, most Lenders would prefer not to own real estate especially when the value of the property is less than the amount of the mortgage. On the other hand it may be a very attractive alternative if the creditor is a private Lender who is the person from whom the borrower purchased the property. The original seller would then possess the property to sell again and would also have the benefit of keeping the original down payment the borrower paid when purchasing the property.

It's suggested that the borrower seek the assistance of an experienced Real Estate attorney in negotiating this option with the Lender. They may even be able to negotiate the possibility of allowing the borrower to live in the property for a certain period of time after the transfer of title back to the Lender has been concluded.

Finally, although a deed in lieu of foreclosure stays the foreclosure process, it is recorded in the local public record and is therefore eligible for reporting to the credit bureaus. But whatever the report is to the credit bureaus, the truth is it will be more favorable than a foreclosure.

5. File Chapter 13 Bankruptcy

This is the principal legal action that can be taken by a borrower that will usually stop the foreclosure

temporarily. By declaring bankruptcy, a foreclosure is stopped in its tracks because an “automatic stay” stops creditors from attempting to collect the consumer’s debts. Even though the Mortgage Lender could eventually have the automatic stay lifted, by that time the Bankruptcy Court will hopefully have proceeded to develop a repayment plan and the house will be covered in the plan.

The fact is, a Chapter 13 bankruptcy provides a reasonable basis to work out a repayment plan for the mortgage arrearage. The way it would work is that a payment would have to be made to the Court Trustee monthly for a three to five year period sufficient for the mortgage arrearage to be paid off. However, Chapter 13 bankruptcy will also force the consumer to include all other unpaid debt in the repayment plan. Whatever monthly payment is calculated by the Court will also include prorated bankruptcy attorney’s fees and the Court Trustee monthly commission over and above the established mortgage payment. This total payment must be maintained for the entire term of the Chapter 13 plan which is typically five years.

If the payment plan can’t be maintained the borrower can always move on to a Chapter 7 bankruptcy but that would not allow the home to be saved because a Chapter 7 does not provide an opportunity to make up the mortgage arrearage and/or to get back on track as a Chapter 13 does. It’s true that Chapter 7 WILL protect your home if the mortgage is up to date but not if it’s in default and the owner is not able to cure it going into the bankruptcy.

In any event, some families are gladly including their homes in Chapter 7 because their mortgages are severely upside down and the bankruptcy will get them

permanently out from under the future hassle and potential obligation of a deficiency. As already discussed an upside down mortgage is when the family owes more than the home is worth and when that deficit becomes too great it makes more sense to include the home in the bankruptcy and then start looking for a new and better one a couple of years after the bankruptcy.

6. Hire an Attorney for Foreclosure Defense

In the event that the foreclosure process reaches the point where the Lender finally presents a motion to the Court for a Foreclosure Judgment against you, you should consider the use of an Attorney. You will know that it's gotten to this point when you receive a *Summons* from the Court naming you as the Defendant in a related Civil Lawsuit that the Lender will have placed before the Court. The *Summons* will usually give you something like 20 or 30 days to present an answer and you should consider taking the *Summons* immediately to an attorney who is experienced in the discipline of foreclosure defense. Even if you can't afford an attorney you should provide some kind of answer yourself within the 20 or 30 days because failure to answer will result in an automatic decision against you.

You can simply write a letter to the Court and present it to the Clerk of the Court a day or so before the end of the 20-day period. Just the presenting of your letter will delay the process by a month or two. Your letter could mention some of the following legal points:

- Request evidence from Plaintiff that it is legally established to bring suit against you.

- Request evidence from Plaintiff that it possesses legal title to the note and mortgage they claim you entered into.
- Request Plaintiff to produce copies of the original documents of indebtedness.
- Request evidence from Plaintiff that the chain of title of the original documents of indebtedness can be reconstructed from the date you entered into the mortgage until the present.
- Request the Court to allow time for you to review all of the documentation.
- Request a detailed accounting in writing of the amount the Plaintiff is suing you for.

At this point your objective should be to delay the legal process while you're continuing to pursue your Mortgage Modification or Short Sale or some other option. The more you can slow down the Court, the greater the chance that your Lender will approve one of the options.

Attorneys can be expensive but they usually won't cost as much as the mortgage payments you're no longer paying so just about everybody should be able to afford one within reason. Most attorneys charge a retainer up front of say from \$1,000 to \$2,000 plus an ongoing monthly payment ranging from say \$150 to \$650. As you can see it will cost you some money so you should be serious about wanting to retain possession of your house. In other words before you spend all that money for an attorney be sure that what you wind up with is going to be a good deal for you and

not one of those upside down situations that will put you in bondage for the next 10 to 20 years.

Now in concluding this section, we need to make it very clear that neither the author nor the publishers of this book are attorneys and that therefore what you read here should NOT be interpreted or construed as legal advice. You should go to an attorney if you require legal advice and we are clearly recommending that if you are served a SUMMONS from a Court you should seek the counsel of an attorney that is experienced in matters of foreclosure defense.

On this year of jubilee each of you shall return to his own property.

Leviticus 25:13

ELEVEN

THE BANKRUPTCY STRATEGY

Someday despite the best of intentions we may find ourselves with such difficult credit problems we need protection from our creditors. It could happen even to conservative, well-administered families when say a bread winner loses a job or because there's an unexpected serious illness or because some other major event occurs that upsets the economic stability of the family. It can happen, and it HAS happened millions of times.

When a family finds itself unable to pay its financial obligations, it will discover that the "system" favors their creditors. In short, there are no acceptable reasons or excuses that have valid legal standing for nonpayment of indebtedness. Therefore, no matter what the reason(s) for unpaid indebtedness might be, creditors are able to access the established legal system and take over valuable assets a debtor has or acquire a portion of the family's limited current income, in order to satisfy a claim without regard for the impact those actions could have on the family, even one with small children involved.

In most states a creditor can proceed through the local Court system to obtain a *Summary Judgment* (or equivalent) against debtors who have not been able to pay their debts. The process to do this requires on average 3 to 6 months depending on the workload of the local court system. What the creditor has to demonstrate is that a purchaser has failed to comply with a legal repayment agreement, that it has made a reasonable effort to collect the debt and that the debtor has refused or ignored the creditor's collection efforts. When the *Summary Judgment* is awarded, the Court in effect is saying that it has reviewed the creditor's claims and that it agrees they are valid. The creditor is then empowered to pursue remedy for collection of the debt under federal and state law.

AFTER the creditor receives the Judgment award, the first thing it will do is look for any non-exempt assets the debtor owns. The only exempt assets in most states are the personal homestead and any future pensions and annuities. Everything else is up for grabs. If the debtor has equity in an automobile, the creditor will find it easily through state registration records and request that the local Sheriff's Office take it away from the debtor in most cases without further notice. If the debtor owns any art objects, jewelry, family heirlooms, non-homestead properties, securities, personal businesses or any other assets of perceived value that come to its attention, the creditor has the right under the law to acquire that property in accordance with the established legal process to satisfy the indebtedness.

Many states can also initiate a *garnishment* proceeding meaning that a debtor can be forced under the authority of the *Judgment* to make monthly payments out of current

income if the Court concludes there will be sufficient income remaining to cover the basic economic needs of the family. The Court will define what those basic needs are, not the family. Many states won't convey garnishment rights to the creditor if there are dependent minor children living in the home. But if a Christian is accustomed to giving tithes and offerings to a church or ministry, it's very possible that the Court will determine that the creditor's claim has a higher priority and the related income will be awarded to the creditor. In sum, the effect of garnishment is that a debtor family loses control over the use of its current income and is subject to ongoing Court regulation.

Creditors also have the right under the law once a *Judgment* has been awarded to require the debtor to appear in their attorney's local office or by some other means to periodically provide updated affidavits under threat of perjury for false testimony as to the family's current assets and liabilities. The family must comply with these requests for information until the *Summary Judgment* has been satisfied or until the Statute of Limitations has expired or until the debtor, should he/she be so disposed, declares bankruptcy.

One important aspect of the *Summary Judgment* that people should be aware of is that its effect is to substantially extend the statute of limitations on the collection of the debt. In most states the basic statute of limitations for debt collection is 4 to 7 years meaning that if a creditor hasn't collected its debt by the expiration, it loses the right for further collection effort through the Court System. But, if that creditor has gone through a legal process to obtain a *Summary Judgment*, the effect is

to extend the statute of limitations for an additional 15 to 20 or more years depending upon the state.

There are only two ways to protect one's family from creditors once the state legal system has validated their claims against a debtor: 1) to repay the debt either in full or by an agreed on settlement for a reduced amount or 2) to declare bankruptcy. In the Old Testament of the Bible, God's original economic plan contemplated periodic forgiveness of indebtedness. Those times were called *Jubilee* years and demonstrated that the heart of God has always contemplated the idea of periodic forgiveness.

But today we don't live under God's system; rather, we live under the World's system that gives little or no thought to forgiveness *especially* in the area of finances. One of the few aspects of the World's financial system that even remotely resembles God's system happens to be bankruptcy because the essence of it is to separate the debtor from his creditors, or in other words "to forgive" the related obligations.

Our view is that debtor families consider the possibility of bankruptcy AS A LAST RESORT when it's needed for protection from creditors. We sincerely believe that every debtor should repay his/her debts especially if God provides the money. Indeed God will provide for our needs but He may or may not provide enough for debt repayment since indebtedness is not a biblical method of provision in the first place. So a debtor may have occasion to resort to modern *Jubilee* in order to protect his/her family which is a higher priority than the principle of repaying one's debts. Even so when people DO have to go into bankruptcy, there's nothing to stop them even years later from repaying

their creditors when the money is available and under repayment terms controlled by the debtor.

As you go through this Chapter, please keep in mind that its purpose is for you to become informed. This is not a substitute for an Attorney or for the legal advice that only attorneys can provide. We don't give legal advice and we're not trying to do that in this Chapter. In fact, it would be a wise move on your part to check out every point you find here with a bankruptcy attorney to be certain you're pursuing the most appropriate options for your family.

Therefore, before taking any actions or making any decisions whatsoever, you should confer with an Attorney. Don't make the mistake of being impatient or fearful and moving too quickly. If you're contemplating bankruptcy, call your Attorney as soon as you have read this Chapter and you have enough information in your head to talk intelligently to insure that the solution the attorney recommends is what's best for your family. Bankruptcy attorneys know bankruptcy and they're likely to assume that bankruptcy is what you want for your family or you wouldn't have contacted their firm. But you need to know enough to "evaluate" what the attorney recommends in the same way you would test any other professionals and counselors.

Bankruptcy attorneys have little to no experience with alternatives and options to bankruptcy that you have access to and it's YOUR responsibility to choose what's best for your family. You don't have to be uninformed and helpless when you go to meet your attorney and we know from experience that this review of key information on the subject will help you make the right choices.

FREQUENTLY ASKED QUESTIONS

The truth is most people don't know very much about bankruptcy and because of that they're dangerously dependent upon their advisors. Even though you absolutely **MUST** eventually talk to an attorney about this subject as has already been pointed out, you shouldn't be ignorantly dependent on ANY outside resource. You should know something about the subject before you contact the attorney and you should be genuinely curious as to whether OR NOT bankruptcy is your best option. You should be able to ask intelligent questions that when properly answered will help you make up your mind. If you go to your Attorney informed and prepared, he/she will be pleasantly surprised and you'll come out with helpful information.

So, if you're contemplating bankruptcy you undoubtedly have a number of questions on your mind such as these that you would want an understanding of before going to your attorney:

- Is bankruptcy the best option for my family?
- What types of bankruptcy are there?
- What effect will bankruptcy have on me and my family?
- Do I have other options?
- What happens to my credit rating after bankruptcy?
- Are all debts forgiven during bankruptcy?

The laws that govern bankruptcy were changed significantly in 2005. The changes were extensive and frankly the law is even more complicated than it was before. Consequently information and advice you may receive from a friend or a relative on this subject has a high probability of not being accurate. When it comes to

the details of bankruptcy regulations, your specific questions are best answered by an attorney that practices bankruptcy as a specialty.

The basic focus of current bankruptcy law is that bankruptcy should be the option of last resort when a family is facing financial difficulty. Before 2005 it was felt that many folks were declaring bankruptcy who should have been able to pursue other, albeit more self-sacrificing alternatives before settling so easily on bankruptcy. Consequently, the 2005 Law requires households whose incomes are above their state average to make substantial life-style adjustments to obtain bankruptcy relief from their creditors. Perhaps 80 to 85% of the people who could have declared bankruptcy under the Old Law can still benefit from the 2005 Law but the process is more complicated and the outcome is somewhat less assured. The result of the 2005 legislation has been a dramatic decrease in the number of personal bankruptcies, the Recession of 2008-10 notwithstanding.

What are the types of bankruptcy?

The various types of bankruptcy are referred to by their respective Chapter numbers in the federal *Bankruptcy Code* which is the set of federal laws that governs all bankruptcy cases in the United States.

Chapter 7: This type is also called “liquidation bankruptcy.” Under Chapter 7, the debtor’s assets that are not exempt from creditors are collected, sold, and the money is used to pay creditors. An eligible debtor may have his/her debts discharged with the exception of certain debts that are not eligible for discharge such as child support, school loans and court ordered restitution. Upon

the Declaration of this type, creditors are required to CEASE their collection activities the moment they're notified. Upon DISCHARGE several months later, the debtor is forever separated from responsibility for repaying the debts that were covered by the bankruptcy.

Chapter 11: Reorganization bankruptcy is used by businesses to reorganize their debts while continuing to operate under the protection of the Bankruptcy Court.

Chapter 12: Family farm reorganization bankruptcy allows eligible family farmers to file for bankruptcy, reorganize the farm's business affairs, and continue to operate under the protection of the Bankruptcy Court.

Chapter 13: A wage-earner's reorganization bankruptcy is used by individuals to reorganize their financial affairs in a plan. Individuals repay a portion of their debts under the supervision of the Bankruptcy Court over a period of time not to exceed five years.

What does my household income have to do with my filing bankruptcy?

The 2005 Law has produced a set of regulations with the intent of directionally making bankruptcy a "needs-based" process. If you have the ability to repay part or all of your debt, you may be required to do so.

To qualify for filing of a Chapter 7 bankruptcy, a number of factors are reviewed. Your attorney will conduct a means test. Your average income for the last six months will be compared with the average income in your state for a household of your size. If you're below the state average (according to the US Census) you may be eligible to file for Chapter 7 bankruptcy. If you earn above the state average

you'll be directed to go through additional testing. If you're not eligible to file a Chapter 7 bankruptcy, you may be eligible to file a Chapter 13 bankruptcy where you'll have to repay a portion of your debt under Court supervision over the following 5 years. When you file for bankruptcy you'll need to verify your income by producing your recent tax returns, pay stubs and bank statements.

How will bankruptcy affect my credit reports/scores?

The information on your credit report won't necessarily change as a result of the bankruptcy. If you had delinquencies or collections on your credit report before the bankruptcy, they'll still be there afterwards in your credit history. Nevertheless the related debts are no longer collectible once they're discharged through the bankruptcy. The bankruptcy will also be listed on your credit report in the Public Records Section. In sum, a bankruptcy does not wipe your credit report clean.

Generally speaking your credit score is based on how you repay your debts. Therefore, it will often decline when someone files bankruptcy. Keep in mind though that your credit score is probably already low anyway since presumably you haven't been able to make your monthly payments on time for some period leading up to the decision to declare bankruptcy.

Having said this, there ARE other steps that can be taken after the bankruptcy to enhance your credit reports and increase your credit scores. You should go to *www.amazon.com* and purchase the following book that will be a big help to your recovering credit rating:

Credit Repair that Reduces Monthly Payments

Will I be able to get credit after filing bankruptcy?

There are no clear cut answers to this question. Most lenders will not lend to you because you'll be considered a high risk and they may have a policy not to lend to people who have filed bankruptcy. But some lenders may be willing to lend you money because you won't be able to file bankruptcy again for the following 8 years. If you do receive credit, you'll most likely have an interest rate much higher than someone who has a good credit rating. Keep in mind that it will take time to rebuild your credit rating, but there IS life after bankruptcy and as time goes on you'll find it increasingly easy to obtain new credit.

Are all debts dischargeable in a bankruptcy?

Not all debts are dischargeable in a bankruptcy. You'll still need to pay things like taxes, tax liens, child support, student loans and a few other things. It's important to seek legal advice on when a debt is or isn't dischargeable.

What effect does bankruptcy have on my family?

The type of bankruptcy you're eligible to file will determine whether you can wipe out most of your debts (Chapter 7) or repay a portion of them under Chapter 13. It's your total household income that will be used to determine which form of bankruptcy you can qualify for. Ancillary assets additional to your homestead such as investment real estate, recreational vehicles, antiques, entertainment devices, jewelry, etc. that you and your family are allowed or not allowed to keep are issues that are regulated by law. Also, there are specific regulations governing the sale or transfer of any of those assets BEFORE the declaration of bankruptcy. You very much need to contact an attorney

as early as possible to UNDERSTAND how the law works, how it will affect your assets and how it will affect your family. Most families wait too long and lose flexibility in the range of available alternatives. GO AND TALK TO YOUR ATTORNEY AS EARLY AS POSSIBLE.

If you wind up in Chapter 13 bankruptcy, the effect on your family will be that the budgeted living expenses you are allowed will be approved by the bankruptcy trustee. You'll lose an important amount of control over this area of your life for the entire period of time you're under the protection of the Court which is a maximum of five years.

Do I have to list all my assets in a bankruptcy?

In the process of filing for bankruptcy you must be honest in reporting your income, assets and all the information you provide. Individuals who fail to disclose information regarding assets or income, or who provide fraudulent information can be prosecuted under the law. You need to be scrupulously truthful in every respect.

What other options do I have?

When you're facing a financial crisis you essentially have five basic options to consider and of those options, bankruptcy is the LAST resort:

- Do nothing
- Develop your own repayment plan (ADR)
- Enroll in a Debt Management Program (DMP) offered by a non-profit credit counseling agency
- Negotiate a debt settlement
- File for bankruptcy

GETTING ORGANIZED FOR BANKRUPTCY

If bankruptcy is your plan of action, your attorney will need documents from you. All individuals and families will need to submit the following:

- ✓ Credit Counseling Certificate (to be coordinated by Bankruptcy Attorney)
- ✓ Income Tax Returns (personal and business) previous three tax years
- ✓ Pay Stubs – last three (3) months
- ✓ For all properties you own:
 - Property Tax Bill
 - Last mortgage statement reflecting principal balance (for all mortgages)
 - Warranty Deed
 - Loan Application and Settlement Statement
 - Homeowner’s Insurance Policy
- ✓ Vehicle title or registration for all vehicles you own
- ✓ Proof of auto insurance
- ✓ Appraisal of your vehicle(s) (*www.kbb.com*)
- ✓ Bank Statements last six (6) months
- ✓ Last retirement statement
- ✓ Proof of US Residency
- ✓ Social Security Card
- ✓ Driver License
- ✓ Credit Report (*www.annualcreditreport.com*)

For individuals and families whose gross income is above the average for their state, additional information will be required in anticipation of entering a Chapter 13 reorganization bankruptcy. So, you should accumulate 12 months of documentation for the following expenses:

- ✓ Medical and prescription expense
- ✓ Clothing expense
- ✓ Food/grocery expense
- ✓ Home repair expenses
- ✓ School expenses
- ✓ Day care expenses
- ✓ Charitable expenses

Before you declare bankruptcy you are required by the 2005 Bankruptcy Law to receive pre-bankruptcy counseling from a counseling agency that has been especially certified by the *Federal Bankruptcy Trustee*. You can find one by calling a local non-profit financial counseling agency to request a referral; or you can call your local Bankruptcy Trustee office and ask for references; or you can ask your bankruptcy attorney to refer you. In fact, your attorney in all probability can arrange that entire process. It will not be hard to find an approved agency and in most states the required counseling can be carried out over the telephone.

There is a small cost associated with this federal requirement in the range of \$50 to \$75. The counseling agency will issue an official certificate verifying that you have completed the mandatory training and you'll present the certificate to your attorney along with the other documents that will be requested. From the time you receive the certificate, you'll have 180 days to declare bankruptcy after which you'll have to repeat the counseling and be re-certified. So, our recommended process would go something like the following:

1. Meet with your attorney on a preliminary basis to discuss your Family Budget and hear the firm's recommendation. Be ready with your list of questions

keeping in mind that you want to learn what you're doing instead of staying helpless and dependent.

2. Consider their recommendation and make the final decision to pursue or not to pursue bankruptcy.
3. If your decision is to pursue bankruptcy, schedule the required preliminary bankruptcy counseling session and receive your official certification a few days after the counseling session.
4. Prepare the *Bankruptcy Organizer Questionnaire* at the end of this section and when you are ready schedule the next session with your attorney and go forward with the preparation of your Declaration of Bankruptcy.

The *Bankruptcy Organizer Questionnaire* will be a BIG help to you and your attorney. If you go there organized you'll be able to save a lot of time and maybe even some money. Most people go to their Attorney's office amazingly UNORGANIZED and wind up taking double or triple the ideal time to prepare the *Declaration of Bankruptcy* form which is included in what you pay your Attorney for. If you appear there too disorganized, you can be assured that your attorney fees will be higher than they could have been. Also, if your financial matters are particularly complicated anyway, then that's all the more reason to get organized before you go to your Attorney's office.

Fill out the organizer. It's an important part of what you paid for when you purchased this Book and it will help you BIG TIME. We have used this form in the counseling ministry for many years to prepare our clients before sending them to the bankruptcy attorney and we know it works and helps both our clients and their attorneys.

Finally, if you have questions about bankruptcy that haven't been answered by this publication, we can refer you to the *Federal Trade Commission* website for an objective review. By all means check out everything there and even give them a call if you want some personal attention. You pay taxes to fund the FTC and they should be eager to help you. Just go to the following link and be guided by the prompts:

<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre41.shtm>

The original source of the information in this Chapter is the American Center for Credit Education. Additional information has been obtained from public sources on the Internet and then integrated with the original source material. No part of this information is meant to provide legal advice. For legal advice you should contact an Attorney.

BUSINESS INFORMATION:

Y / N

Business Debtor? - (if you checked no "N" then skip to next question)

Type of Business - (Select from drop-down choices below)

N/A

Name of Business	Describe nature of business
------------------	-----------------------------

Date open business	Date closed (leave blank if not closed)
--------------------	---

REAL PROPERTY INFORMATION:

Own Rent Keep Repo

Name of the bank

Address of Bank, City, State, Zip

Balance of 1st Mortgage	\$			Balance of 2nd Mortgage	\$
-------------------------	----	--	--	-------------------------	----

Name, Address, City, State, Zip (of 2nd Mortgage)

AUTOMOBILE INFORMATION:

Car: Y / N

Name, Address, City, State, Zip (of where you make payment)

Year:	Type:	Make:
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Value: \$	Balance \$
-----------	------------

Keep: Y / N Vin #:

Second Car: Y / N

Name, Address, City, State, Zip (of where you make payment)

Year: Type: Make:

Value: \$ Balance \$

Keep: Y / N Vin #:

EMPLOYMENT INFORMATION:

Employer Name and Address, City, State, Zip

Occupation

Paid: Weekly Weekly Bi- Monthly Semi- Monthly

\$ \$

Gross Pay Net Pay

Employer Name and Address, City, State, Zip

Occupation

Paid: Weekly Weekly Bi- Monthly Semi- Monthly

\$ \$

Gross Pay Net Pay

MONTHLY EXPENSES:

Mortgage / Rent: \$ **Insurance:**

Include Taxes Y / N Auto \$

<i>Include Insurance</i>	<input type="checkbox"/> Y / <input type="checkbox"/> N	Life	\$
Second Mortgage	\$	Home	\$
Maintenance	\$	Health	\$
Electricity	\$	Installments:	
Telephone	\$	Auto Payment	\$
Water	\$	Gas for Car	\$
Food	\$	Lunch Money	\$
Clothing	\$	Child Support	\$
Laundry	\$	Alimony	\$
Medical	\$	Charity	\$
Transportation	\$	Other	\$
Checking Account:	<input type="checkbox"/> Y / <input type="checkbox"/> N	Account Number:	
Bank Name		Owe IRS: <input type="checkbox"/> Y / <input type="checkbox"/> N	
		Own Boat: <input type="checkbox"/> Y / <input type="checkbox"/> N	

Bank Address, City, State, Zip

LIST OF CREDITORS:

Name of Creditor	Name of Creditor
Account #:	Account #:
City, State, Zip	City, State, Zip
Balance: \$	Balance: \$
Name of Creditor	Name of Creditor
Account #:	Account #:
City, State, Zip	City, State, Zip
Balance: \$	Balance: \$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
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Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$
Name of Creditor		Name of Creditor	
Account #:		Account #:	
City, State, Zip		City, State, Zip	
Balance:	\$	Balance:	\$

SUMMARY OF BASIC Q & A

The following additional questions about bankruptcy are the ones that people commonly ask. Keep in mind though that the answers to them as presented in this publication have been compiled from public sources and are not intended to substitute for the advice of an attorney. It would be unlawful for a counseling ministry to give legal advice and we are careful not to.

Also, you'll note that some of the questions in this section were handled in the previous section. This redundancy occurs because they're presented in different contexts and were derived from different sources. It was felt that this redundancy would be helpful to the reader who wants the most thorough possible review of this important subject.

What is a Chapter 7 bankruptcy?

Chapter 7 bankruptcy is a liquidation proceeding. The debtor turns over all non-exempt property to the bankruptcy trustee, who then converts it to cash for distribution to the creditors. Within 4 to 5 months after filing a Chapter 7 bankruptcy, the debtor receives a discharge (i.e., a "wiping out") of all dischargeable debts.

Who can file a Chapter 7 bankruptcy?

The debtor must reside or have a domicile, a place of business, or property in the United States or a municipality. The debtor must not have been granted a Chapter 7 discharge within the last 8 years. In addition, the debtor must not have had a bankruptcy filing dismissed for cause within the last 180 days. A bankruptcy must be filed in the county of residency.

What is a Chapter 13 bankruptcy?

Chapter 13 is a reorganization of debt. The debtor pays back creditors through a monthly "plan" payment handled by the bankruptcy trustee. Generally, the duration of the plan ranges from 3 to 5 years.

Who can file a Chapter 13 bankruptcy?

The same basic filing requirements apply for the most part to Chapter 13 debtors as to Chapter 7 debtors.

What are the most common reasons for filing a Chapter 7 bankruptcy?

The most common reasons for consumer bankruptcy are: unemployment; medical expense; seriously over-extended credit; marital problems and large unexpected expenses.

What are the most common reasons for filing a Chapter 13 bankruptcy?

One main reason that a person files for a Chapter 13 bankruptcy is to maintain possession of real property for which payment is in default (i.e., to stop a foreclosure proceeding). Under a Chapter 13 plan, the debtor will have to bring all back payments current over a period of time but that could be several years. Another reason for filing Chapter 13 is when a person needs protection from creditors but is unable to qualify for Chapter 7 under the requirements of the 2005 Bankruptcy Law.

Is it true that I can wipe out all of my bills?

The underlying policy of bankruptcy law is that the honest debtor who is in debt beyond his/her ability to repay the

debt should be given a fresh start through the discharge of debts in a bankruptcy proceeding. Not all debts are dischargeable. For example, the following debts are generally not dischargeable: taxes; spousal and child support; student loans; criminal fines and penalties; debts arising out of willful or malicious misconduct; liability for injury or death from driving while intoxicated; non dischargeable debts from a prior bankruptcy. Those debts, which are secured, may be discharged but the creditor will probably take the necessary legal steps to take back the property.

Who notifies the creditors and bill collectors of my bankruptcy filing?

After your bankruptcy is filed, the court mails a notice to all the creditors listed in your schedules. This usually takes a couple of weeks. If this is not soon enough, then you could request your attorney to inform the creditors. You can also do this yourself just by providing creditors with your Bankruptcy Case Number.

Does filing bankruptcy stop bill collectors from calling or contacting me?

Yes. One of the main benefits of filing for protection under Chapters 7 and 13 is that most creditor action is “*stayed*.” This means that all debt collection effort including foreclosure must be halted until further order of the court.

How long after the bankruptcy is filed will the creditors stop calling?

Once a creditor or bill collector becomes aware that the debtor has filed for bankruptcy protection, he/she must

immediately stop all efforts to collect the debt. This is called an “*automatic stay*.” If a creditor continues to use collection tactics after notification of the bankruptcy proceeding, he/she may be liable for court sanctions and attorneys’ fees.

Can I keep my home after bankruptcy?

Under a Chapter 7 proceeding, you may be able to keep your home through a *reaffirmation agreement* so long as you are current in your mortgage payments. If you have no equity in your home, the Court will let you keep it without further discussion. But the exemptions under bankruptcy law are partially governed by state law. Therefore, you will need to consult an attorney to define exactly how much protection for your home you are entitled to under the Law as administered in your state.

Even if you do owe back payments and even if your home is not fully protected under Chapter 7 in your state, you may still be able to keep it through a Chapter 13 monthly repayment plan where you would pay all back payments over a period of time (normally three to five years).

What happens to my personal property, real property and other assets?

Once the bankruptcy is filed, all of the property of the debtor at the time of filing and certain other property to be received in the future become the property of the bankruptcy estate. This means that the bankruptcy trustee will take control of this property for purposes of satisfying the creditors. HOWEVER, there is certain property which is either excluded or exempt and the debtor will be able to keep it. Property or asset exemption

is determined based upon state statute. Also, you're generally allowed exemption on certain pension and retirement plans, annuities and un-matured life insurance.

Do I have to disclose all of my assets?

Yes. If you knowingly and fraudulently conceal an asset from the court, you will have committed a felony and can be fined up to \$5,000, imprisoned for up to five years, or both. In addition, the court can deny you your discharge, or dismiss or convert your bankruptcy proceeding.

Can I keep my credit cards after bankruptcy?

A debtor has the right to keep any debt he/she desires. Sometimes, a debtor may want to keep a credit card after bankruptcy. In such case, the debtor *reaffirms the debt*. This means that the debtor takes the debt out of bankruptcy. The debtor may keep and continue to use the credit card under the original terms of the agreement with the creditor; however, the debtor is personally responsible for the payment of the debt incurred prior to bankruptcy.

I am married. Does my spouse also have to file bankruptcy?

No. In some cases where only one spouse has debts, or where the other spouse has debts that are not dischargeable, then it might be advisable to have only one spouse file. However, in some cases where real property is involved, or where the spouse is a co-debtor on most of the other spouse's dischargeable debts, then the question of joint bankruptcy is a little trickier, and questions should be referred to an attorney.

Will my employer find out about my bankruptcy?

Unless your employer is a creditor, generally your employer will not be notified of your filing. However, you should know that an employer is an authorized user of credit reports and some of them perform cyclical reviews of their employees' credit reports in which case they would find the bankruptcy.

Will bankruptcy stop a wage garnishment?

Yes. However, the debtor usually cannot recover that amount already garnished by the creditor before the debtor filed for bankruptcy.

Will bankruptcy cause me to lose my job?

No. Bankruptcy laws prohibit discrimination based upon a debtor filing for bankruptcy protection.

Will bankruptcy stop an eviction?

Perhaps it will. However, it will only delay the inevitable if you don't make an arrangement to bring your rent to a current status. The landlord is entitled to possession of his property and at best you will be able to remain in the property until you have received your discharge from bankruptcy or the landlord obtains an order from the bankruptcy court to go forward with the eviction. If the only reason you file for bankruptcy is to stop an eviction, this might be considered an abuse of Chapter 7. If the bankruptcy court finds that this is true, the court can immediately dismiss the bankruptcy and impose other legal and monetary sanctions against you.

Will bankruptcy stop a judgment?

Yes. Most civil judgments are stopped by bankruptcy and rendered permanently stayed upon the bankruptcy discharge.

I am a co-signer for a debt. How does bankruptcy affect my obligation?

If the debt is a dischargeable debt, then you will not have to pay it. However, the other co-signer becomes primarily responsible for the debt.

Will bankruptcy remove a lien?

Under some circumstances once the bankruptcy proceedings have started, a special motion can be filed to remove certain liens. It will take a bankruptcy court order to remove them. This is a complicated area of the bankruptcy law and an attorney should be consulted. However, generally, you will NOT be able to remove already existing tax liens especially federal tax liens.

What if I forget to list a creditor on my bankruptcy papers?

You are permitted to file an amendment to your schedules up to a certain time before discharge. If the amendment is timely filed, then the omitted creditor is added to the bankruptcy. However, if you fail to list a creditor, you may not be able to use the bankruptcy laws to protect you against that creditor. Accordingly, it is in your best interest to list every creditor, whether or not you dispute his/her claim against you. Be sure to ask your attorney how long you have to file an amendment in your state.

If I need to file bankruptcy again, how long do I have to wait?

You must wait 8 years to file again. Or, if your bankruptcy case is dismissed, you must usually wait 180 days.

What types of personal property may I keep?

This issue is regulated by state law and you should consult an attorney.

Is there anything I should not do if I am contemplating filing for bankruptcy?

There are several areas related to this question and you should consult your attorney. In particular, there are three items worth mentioning in this publication: First, under bankruptcy law, certain purchases of luxurious items over \$1,000 within 60 days of filing for bankruptcy are presumed to be non-dischargeable. Also, under bankruptcy law, cash advances aggregating \$1,000 within 60 days of the bankruptcy filing are presumed to be non-dischargeable. Last, debts appearing on a materially false financial statements may be non-dischargeable under certain circumstances.

Will I have to go to court?

Yes. About 30 to 40 days after you file for bankruptcy, you will have to attend a hearing presided over by the bankruptcy trustee. This hearing is called the *First Meeting of Creditors*. At this hearing the trustee will ask you questions under oath regarding the content and accuracy of your bankruptcy papers. After the trustee is finished the creditors will be permitted to question you. If

you have an attorney, your attorney will be there to represent you and will help prepare you for the hearing.

Sometimes, after your hearing is over, various creditors will approach you to discuss the status of secured property or your desire to retain a credit card. Your attorney will negotiate with them, with your knowledge and approval. After this hearing, you will normally not need to return to court. However, if a creditor files a motion or an *adversary action*, you will probably have to return to court. This is the exception and only your attorney can determine if this likely to happen.

Can a professional credit repair service help me after bankruptcy?

There are many companies with varying levels of expertise and honesty that offer “credit repair” service. Credit repair is a legal process and can only be executed in strict compliance with federal law. One law is called the *Credit Repair Organizations Act*. It prohibits untrue or misleading representations and requires certain affirmative disclosures in the offering or sale of "credit repair" services. The Act bars companies offering credit repair services from demanding advance payment, requires that credit repair contracts be in writing, and gives consumers certain contract cancellation rights.

The second law is called the *Fair Credit Reporting Act* (FCRA). It calls for credit bureaus to properly verify credit report information that is disputed by consumers. Since bankruptcies are a matter of *Public Record*, they can be easily verified and so a bankruptcy can only be removed from credit reports if it has been incorrectly reported or is in non-compliance with the strict application of the FCRA.

However, if reported accurately and in compliance with the law, bankruptcies cannot normally and legally be removed from the *Public Record* section of credit reports. A copy of the *Fair Credit Reporting Act* has been included as an Appendix to this publication for your review and information.

Nevertheless, there may be instances in which individual creditors report the bankruptcy information while also reporting information that is outdated. This could provide justification to demand that the entire reporting be removed which would also include the bankruptcy reporting. But *beware* of the few credit repair clinics that “guarantee” anything or that offer to open a new file for you at the credit bureaus. Many of these offers require *illegal* actions and can get consumers into a lot of trouble.

In truth, the greatest benefit from post-bankruptcy credit repair will probably be the removal of derogatory history outside of the bankruptcy. For instance, there may be late payment history or collection reporting that occurred prior to the bankruptcy that if removed, can increase the FICO score. This process coupled with diligent money management that results in remaining bills being paid on time should allow you to be credit worthy again in a relatively short period of time. In post-bankruptcy credit restoration, paying your bills on time, in particular home mortgages and car loans, is the most important strategy.

If you would like to try carrying out your own credit repair yourself, please consider the below publication that you can find at *www.amazon.com*:

Credit Repair that Reduces Monthly Payments

How soon can I acquire a mortgage after filing bankruptcy?

It depends on the type of bankruptcy. Most mortgage companies will not approve you for a mortgage until your debts have been “discharged.” In a Chapter 7 bankruptcy, this generally occurs approximately four months after the last court hearing (for most cases there will be only one hearing). However, since a Chapter 13 bankruptcy entails a three to five-year re-scheduling of debts before the case is discharged, it takes a considerably longer time to regain “mortgage worthiness” than with a Chapter 7.

A consumer with bankruptcy in the immediate past (less than 12 months) can only look to “hard money” lenders for a new loan. The interest rate, equity requirements and loan costs will be relatively HIGH and most people would do well to wait another year to start looking for more favorable terms and conditions.

After that the borrower will need to wait 2 years from the bankruptcy discharge date to obtain a new mortgage. In all of these cases the underwriting requirements will be looking for on-time payment history since the bankruptcy discharge date. If there are any late payments during that critical period of analysis, it will be difficult to obtain any of the normal types of mortgages and you’ll be back to hard money lenders only.

In some cases the normal 24-month waiting period can be reduced to 12 months if the borrower can document that the bankruptcy occurred because of uncontrollable circumstances instead of financial mismanagement. And there will have to be an impeccable on-time payment history following the bankruptcy.

After bankruptcy, how do I re-establish my credit?

There are several ways to get credit after bankruptcy. First, one of your existing creditors may continue to grant you credit based on a reaffirmation agreement made during the bankruptcy proceeding. Second, there are several banks that offer secured credit cards. This means that the credit limit is based on the amount of collateral the cardholder is able to put up to secure the account.

Finally, it is also possible to be approved for unsecured credit cards because some creditors are more likely to extend credit after you file for bankruptcy than before. With all dischargeable debts wiped away, prospective creditors will view you as now having more disposable income available to pay any new debts. In addition, creditors know that debtors can't file for bankruptcy protection for another eight years for Chapter 7 (and six years for Chapter 13), thereby shielding creditors from the bankruptcy laws during that time period. Nevertheless, if true rehabilitation for the problems that caused the bankruptcy has not occurred, it's a risky proposition to acquire new unsecured credit cards where new indebtedness can be easily run up.

Since you've had to go through the pain of bankruptcy, why not really start over and find out how wonderful it is to live on a cash basis without credit.

Please keep in mind that the answers to the foregoing questions have been compiled from public sources and are not intended to substitute for the advice of an attorney. It would be unlawful for a counseling ministry to give legal advice and we are careful not to.

Please consult with your attorney and other professionals before any taking action.

SOME FINAL THOUGHTS ON BANKRUPTCY

Bankruptcy is without question a big issue for any family to have to deal with. The events that have led up to it have been traumatic enough and then on top of that having to face the legal system that seems to have all the power and authority at its disposal can be overwhelming. However, the truth is, a lot of GREAT families have had to go through this process through no fault of their own, so you're in good company.

We've said as clearly as we know how that bankruptcy should be considered as a last resort to overcome financial problems. Indeed, many people has gone through it that shouldn't have for one of the following reasons:

- They went through bankruptcy on purpose to avoid paying their debts.
- They didn't know there were better options that would have worked.
- Their attorneys didn't know or weren't interested in the fact that there were better options that would have worked.

Our objective with this Chapter is that you become informed enough about bankruptcy to avoid being drawn into the wrong option for dealing with your financial problems. Bankruptcy is not always the best option and people tend to gravitate to it prematurely thinking it will alleviate all their pain and suffering. But it's a severe solution that takes years to recover from and you should

be certain when you decide what to do that you're taking the right action.

In addition to the toll that bankruptcy takes on your credit rating, it's also nerve racking and a fearful experience. You'll have to appear in Court and face a Judge and the Court's Trustee and your creditors if any of them show up to the hearing. You'll be involved in a legal proceeding just like on TV except this is reality and you'll be the "perp" everyone is looking at. You'll realize at some point that you're going through an official proceeding and that it will be recorded in perpetuity that at this point in your life you had to seek protection from your creditors. Also, one of the strongest emotions people feel after the finality of bankruptcy and the Court appearance and all the rest of it is a sense of guilt that they could've done something differently to have avoided winding up in Bankruptcy Court.

Well, that's why we want you to be sure you're about to do the right thing. But once you're sure then go ahead with confidence to protect your family and to create a basis for starting a new life with a different life style, with better plans and goals and with a stronger purpose than ever before. The truth is that for most people the need for bankruptcy is the result of either the macro economy that they had nothing to do with or medical problems which weren't anticipated. You might find it of interest that historically 50% of all personal bankruptcies have been caused by the unexpected costs of medical problems.

Learn from the experience. Grow from the experience. And make a binding commitment with yourself never to wind up in Bankruptcy Court again...ever, ever!

Fight the good fight of faith...

1 Timothy 6:12

TWELVE

THE STRATEGY OF FIGHTING THE GOOD FIGHT

As stated way back in the *Introduction*, this book is one of the most complete publications in existence today on the subject of debt repayment. Nevertheless, the space that's available for a book like this is quite limited and forces our discussion to cover what amounts to the tip of a very large iceberg. There's a lot of iceberg left over, still a lot to learn about the larger subject of family finances. In fact, you could memorize this entire book and still lack a lifetime of important information that you need to know if you really want to achieve permanent financial victory. Another way to say it is: you're just getting started!

Indeed, the topic of family finances is one of the most expansive and important areas in life that any of us ever have to deal with. That's why the Bible talks more about financial stewardship than any other subject. Despite its importance though, despite its complexity and the fact that it's constantly changing, most people spend little-to-no time trying to increase their knowledge about it. As a result they make wrong decisions and choices about

simple financial concepts, they routinely live beyond their means and they're easily victimized by unscrupulous people who *have* taken the time and gone out of their way to learn all they can about the financial industry so they can take advantage of people by confiscating their wealth. And so, when a financial crisis eventually comes along, nobody in the family knows what to do. Rather, they typically put their heads in the sand instead of talking to their creditors and hope the related problems will go away somehow, someway, someday.

CREDITORS ARE NOT YOUR FRIENDS

People need to look at their relationships with creditors and lenders as a type of warfare. They're trying to seduce you into going into debt so they can make their money by charging you as much interest as you're willing to pay. All those entertaining little TV commercials are working to overcome your resistance, but they lead to a place where you don't want to be. If they can get you into debt, you become dependent on them and the interest you'll be paying will cause you to divert scarce funds over to them that should be going into your savings and retirement accounts or into opportunities to bless other people. Generosity by the way is like a magnet: you bless other people financially and it attracts financial blessings back to you. The Bible calls this the law of sowing and reaping.

But war is war and to the victor belongs the spoils. When you go to war, you have to know who your enemy is and go into battle to win. Winning for you means that you successfully AVOID indebtedness despite all the temptations from a materialistic culture to use credit to get what you want ASAP. It's hard to stay out of debt but

it can be done by making an irrevocable commitment to pursue debt freedom. You reject the idea of immediate self-gratification in favor of waiting until you have been able to set aside sufficient funds to make your purchases without going into debt. By waiting, you WIN the battle!

THE ESSENCE OF THE WAR

Reduced to its basics, fighting the war is about two key, highly important aspects of your financial life:

1. Educating yourself on a continuous basis so that you're always learning about family financial matters and keeping up to date with the latest changes in the industry so you can manage your affairs with expertise.
2. The second is learning to resist the allure of potential creditors who are doing everything in their power to "entrap" you into their way of doing things so they can place an ongoing legal claim against your limited funds.

Now the Bible says we should fight the GOOD fight of faith (1 Timothy 6:12). The fight is about receiving the best that God has to offer instead of settling for anything less. For it to be a GOOD fight though means that we have to win. If we fight and wind up on the losing side, it's a BAD fight. Winning the fight is GOOD. LOSING the fight is BAD. It's that simple. And if you LOSE a fight one day and choose indebtedness, it could be something that puts you on the losing side for decades.

It's dangerous to play around in this war. Stay debt free and always be a winner. Try indebtedness to find out what it feels like and run the risk of starting a trend for your life that makes you a chronic financial loser.

A PLACE FOR FAITH

Keep in mind that you don't have to conduct this fight on your own. According to the Bible, there's a God in heaven who wants to help you. The way you take advantage of that help is by FAITH. You believe that God wants to help you and then you let Him take over. You give the heavy lifting to Him and watch the results come to you supernaturally as a result of your faith, trusting Him to be true to His Word and delivering on His promises.

Debt freedom is God's best. In fact, His Word says it's a BLESSING⁹ that He gives for diligent obedience.¹⁰ And, according to Him, indebtedness is a CURSE¹¹ that He gave out under the Covenant of the Law for bad behavior and disobedience.¹² Who wants a curse? And so, under the New Covenant, God blesses by GRACE through FAITH and He'll help you achieve your debt freedom if you pursue your part with diligence and purpose and then simply ask Him for his help. Once you've done those things stand in Faith believing that He'll show up for the heavy lifting.

GOING FROM LOSER TO WINNER

Most of the people reading this book are probably already acquainted with debt. But, you've read it because you're tired of LOSING and you want to be a WINNER. The way you do that is to make an irrevocable decision to use the most appropriate strategy in this book to bring you to debt freedom the most quickly. You're the ones this book was written for! So: SMASH DOWN YOUR DEBT FOREVER!

⁹ Deuteronomy 28:12

¹⁰ Deuteronomy 28:1-2

¹¹ Deuteronomy 28:44

¹² Deuteronomy 28:15

There will be a tendency to skip portions of this book and focus only on the parts that pertain to your situation. That's NOT the best strategy. Certainly focus on the parts that most pertain to you but resist the temptation to be lazy! Read ALL of this book including all those other parts so you can learn about the entire industry. The more you know the more you'll be confident in the strategies you have chosen for yourself.

In various places in this book, we've mentioned several other publications on the general topic of family finances. We recommend that you purchase ALL of them as soon as possible so you can start putting together a personal library of books about this complex subject. Simply go to www.amazon.com and search for the following titles:

Budget Yourself to Financial Victory

Credit Repair that Reduces Monthly Payments

Employee to Employer in 90 Days

We want you to succeed and become a WINNER so you can enjoy God's very best for your life. Jesus came so that we can receive abundance in every area of life (John 10:10). It's there for us as long as we do our part. So, go for it, keep the faith and don't look back. Expect to WIN!

APPENDIX A

A Summary of Consumer Rights under FCRA

A Summary of Consumer Rights under FCRA

The federal law called the *Fair Credit Reporting Act* (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you such as if you pay your bills on time or have filed bankruptcy. That information is allowed by federal law to be sold to creditors, employers, landlords, and other approved businesses.

You can find the complete text of the FCRA, 15 U.S.C. §§1681-1681u on-line at the following location:

<https://www.consumer.ftc.gov/articles/pdf-0111-fair-credit-reporting-act.pdf>

The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

Please take note that this is a summary of major points in FCRA. It is suggested that you go on line and locate a copy of the complete law to get a complete picture of how this important legislation might relate to your specific case.

You must be told if information in your file has been used against you. Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must

tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

You can find out what is in your file. At your request, a CRA must provide you the information in your file, and a list of everyone who has requested it recently (within the last two years). There is no charge for the report if a person has taken action against you including the denial of a credit application because of information supplied by the CRA as long as you request the report within 60 days of receiving notice of the action.

Also, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See the following website for additional information:

www.consumerfinance.gov/learnmore

Otherwise CRA's may charge you their published rate for credit reports and they must provide your report upon request and payment of the required fee.

You can dispute inaccurate information with the CRA.

If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the

investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement (one hundred words or less) to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

You have the right to ask for a credit score. Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

Inaccurate information must be corrected or deleted. A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

You can dispute inaccurate items with the source of the information. If you tell anyone such as a creditor who

reports to a CRA that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.

Outdated information may not be reported. In most cases, a CRA may not report negative information that is more than seven years old or more than ten years for bankruptcies.

Access to your file is limited. A CRA may provide information about you only to people with a need recognized by the FCRA, usually to consider an application with a creditor, insurer, employer, landlord, or other authorized business.

Your consent is required for reports that are provided to employers, or reports that contain medical information. A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form

provided for this purpose, you must be taken off the lists indefinitely.

You may seek damages from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

Identity theft victims and active military personnel have additional rights. For more information, visit the following website:

www.flc.gov/credit.

APPENDIX B

Fair Debt Collections Practices Act

Fair Debt Collection Practices Act

As amended by Public Law 111-203, title X, 124 Stat. 2092 (2010)

As a public service, the staff of the Federal Trade Commission (FTC) has prepared the following complete text of the Fair Debt Collection Practices Act

§ 801. Short Title

This subchapter may be cited as the "Fair Debt Collection Practices Act."

15 USC 1692

§ 802. Congressional findings and declarations of purpose

(a) Abusive practices

There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through

means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) Purposes

It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

15 USC 1692a

§ 803. Definitions

As used in this subchapter --

(1) The term "Bureau" means the Bureau of Consumer Financial Protection.

(2) The term "communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.

(3) The term "consumer" means any natural person obligated or allegedly obligated to pay any debt.

(4) The term "creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

(5) The term "debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

(6) The term "debt collector" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 1692f(6) of this title, such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include –

(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

(D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; and

(F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

(7) The term "location information" means a consumer's place of abode and his telephone number at such place, or his place of employment.

(8) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

15 USC 1692b

§ 804. Acquisition of location information

Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall –

(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(2) not state that such consumer owes any debt;

(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

(4) not communicate by post card;

(5) not use any language or symbol on any envelope or in the contents of any communication effected by the mails or

telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and

(6) after the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

15 USC 1692c

§ 805. Communication in connection with debt collection

(a) Communication with the consumer generally

Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt --

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(b) Communication with third parties

Except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post judgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

(c) Ceasing communication

If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except --

(1) to advise the consumer that the debt collector's further efforts are being terminated;

(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(d) “Consumer” defined

For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

15 USC 1692d

§ 806. Harassment or abuse

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
- (2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
- (3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 1681a(f) or 1681b(3)¹ of this title.
- (4) The advertisement for sale of any debt to coerce payment of the debt.
- (5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- (6) Except as provided in section 1692b of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.

§ 807. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.

(2) The false representation of --

(A) the character, amount, or legal status of any debt; or

(B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to --

(A) lose any claim or defense to payment of the debt; or

(B) become subject to any practice prohibited by this subchapter.

- (7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.
- (8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.
- (9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.
- (10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
- (11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.
- (12) The false representation or implication that accounts have been turned over to innocent purchasers for value.
- (13) The false representation or implication that documents are legal process.
- (14) The use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.
- (15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

(16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 1681a(f) of this title.

15 USC 1692f

§ 808. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if --

- (A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;
- (B) there is no present intention to take possession of the property; or
- (C) the property is exempt by law from such dispossession or disablement.

(7) Communicating with a consumer regarding a debt by post card.

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

15 USC 1692g

§ 809. Validation of debts

(a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing --

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the

consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(b) Disputed debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

(c) Admission of liability

The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

(d) Legal pleadings

A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).

(e) Notice provisions

The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by title 26, title V of Gramm-Leach-Bliley Act [15 U.S.C. 6801 et seq.], or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.

15 USC 1692h

§ 810. Multiple debts

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

15 USC 1692i

§ 811. Legal actions by debt collectors

(a) Venue

Any debt collector who brings any legal action on a debt against any consumer shall --

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity --

(A) in which such consumer signed the contract sued upon; or
(B) in which such consumer resides at the commencement of the action.

(b) Authorization of actions

Nothing in this subchapter shall be construed to authorize the bringing of legal actions by debt collectors.

15 USC 1692j

§ 812. Furnishing certain deceptive forms

(a) It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.

(b) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 1692k of this title for failure to comply with a provision of this subchapter.

15 USC 1692k

§ 813. Civil liability

(a) Amount of damages

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of --

(1) any actual damage sustained by such person as a result of such failure;

(2) (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000; or

(B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

(b) Factors considered by court

In determining the amount of liability in any action under subsection (a) of this section, the court shall consider, among other relevant factors --

(1) in any individual action under subsection (a)(2)(A) of this section, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or

(2) in any class action under subsection (a)(2)(B) of this section, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's noncompliance was intentional.

(c) Intent

A debt collector may not be held liable in any action brought under this subchapter if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(c) Jurisdiction

An action to enforce any liability created by this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

(d) Advisory opinions of Bureau

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the Bureau, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

15 USC 1692i

§ 814. Administrative enforcement

(a) Federal Trade Commission

The Federal Trade Commission shall be authorized to enforce compliance with this subchapter, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to another Government agency under any of paragraphs (1) through (5) of subsection (b), subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.]. For purpose of the exercise by the Federal Trade Commission of its functions and powers

under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this subchapter shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this subchapter, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(b) Applicable provisions of law

Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with any requirements imposed under this subchapter shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

- (A) national banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks;
- (B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.]; and
- (C) banks and State savings associations insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and insured State branches of foreign banks;

(2) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(3) subtitle IV of title 49, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

(4) part A of subtitle VII of title 49, by the Secretary of Transportation with respect to any air carrier or any foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. 226, 227]), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau, with respect to any person subject to this subchapter. The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) Agency powers

For the purpose of the exercise by any agency referred to in subsection (b) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this subchapter any other authority conferred on it by law, except as provided in subsection (d) of this section.

(d) Rules and regulations

Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5519(a)], the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this subchapter.

15 USC 1692m

§ 815. Reports to Congress by the Bureau; views of other Federal agencies

- (a) Not later than one year after the effective date of this subchapter and at one-year intervals thereafter, the Bureau shall make reports to the Congress concerning the administration of its functions under this subchapter, including such recommendations as the Bureau deems necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with this subchapter is being achieved and a summary of the enforcement actions taken by the Bureau under section 1692*l* of this title.
- (b) In the exercise of its functions under this subchapter, the Bureau may obtain upon request the views of any other Federal agency which exercises enforcement functions under section 1692*l* of this title.

15 USC 1692n

§ 816. Relation to State laws

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. For purposes of this

section, a State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection provided by this subchapter.

15 USC 1692o

§ 817. Exemption for State regulation

The Bureau shall by regulation exempt from the requirements of this subchapter any class of debt collection practices within any State if the Bureau determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this subchapter, and that there is adequate provision for enforcement.

§ 818. Exception for certain bad check enforcement programs operated by private entities

(a) In general

(1) Treatment of certain private entities

Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 1692a(6) of this title, with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

(2) Conditions of applicability

Paragraph (1) shall apply if—

(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)

(i) complies with the penal laws of the State;

(ii) conforms with the terms of the contract and directives of the State or district attorney;

(iii) does not exercise independent prosecutorial discretion;

(iv) contacts any alleged offender referred to in subparagraph

(A) for purposes of participating in a program referred to in such paragraph—

(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and

(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that--

(I) the alleged offender may dispute the validity of any alleged bad check violation;

(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the

alleged offender may file a crime report with the appropriate law enforcement agency; and

(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and

(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

(b) Certain checks excluded

A check is described in this subsection if the check involves, or is subsequently found to involve—

- (1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;
- (2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;
- (3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;
- (4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;
- (5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or
- (6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or

district attorney at the time the check was made, drawn, or delivered.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) State or district attorney

The term “State or district attorney” means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth’s attorneys, solicitors, county attorneys, and state’s attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

(2) Check

The term “check” has the same meaning as in section 5002(6) of title 12.

(3) Bad check violation

The term “bad check violation” means a violation of the applicable State criminal law relating to the writing of dishonored checks.

15 USC 1692 note

§ 819. Effective date

This title takes effect upon the expiration of six months after the date of its enactment, but section 809 shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date.

ENDNOTES

1. Section 604(3) has been renumbered as Section 604(a)(3).

Legislative History

House Report: No. 95-131 (Comm. on Banking, Finance, and Urban Affairs).

Senate Report: No. 95-382 (Comm. on Banking, Housing, and Urban Affairs).

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102-242 (December 19, 1991)

102-550 (October 28, 1992)

104-88 (December 29, 1995)

104-208 (September 30, 1996)

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THE AUTHOR



ABOUT THE AUTHOR

Dr. Bill Miller is an ordained cross-denominational minister, elder and the founder of a national nonprofit Christian organization called *Make A Way Ministries*. He has been involved in financial counseling and teaching since 1985 and his organization has assisted tens of thousands of families to overcome financial problems and get on to financial success and victory.

He also pastored the bilingual (English/Spanish) *Faith Life Fellowship Church* in Miami Florida from 2007 until 2012.

Dr. Miller has published a bible-based financial e-newsletter called *Prosperous Life Newsletter* since January 1998 and has written more than 25 books and e-books about various financial topics with the purpose of helping families overcome financial problems on a practical level.

Make A Way Ministries started officially in 1987 by counseling Christian business people in Dade County, Florida. That form of counseling was an important foundation for this ministry and out of it came a wealth of experience for today's financial counseling ministry.

Dr. Bill was born in Houston, Texas a long time ago and is a graduate of *Texas Tech University* in Lubbock. He also holds a Doctorate in Ministry from *Miami Christian University*.

He currently lives happily and works busily with his wife Sherri in the historic community of Granbury, Texas.

