

# NYC Bankruptcy Assistance Project at LSNY

A Project of Legal Services for New York City

**LSNY**

## Attorney Assessment Checklist

### 1. Gather documents

Gather as many of the documents below as the client can provide. If they have it, mark with a checkmark (√). If they still need to bring it, mark with an arrow (→). If they don't need it, mark "NA."

#### THE FOLLOWING ITEMS SHOULD BE COLLECTED IN ALL CASES:

- \_\_\_\_\_ **Screening Form. REVIEW** for completeness & accuracy.
- \_\_\_\_\_ **Debtor's Questionnaire. REVIEW** for completeness.
- \_\_\_\_\_ Picture **identification** card and **Social Security** card or other document containing your social security number. **We MUST copy these, or the ID and some other identifying document.**
- \_\_\_\_\_ **Tax returns:** the one filed this year, and the prior filing. (If none required filed this year, when was the last return filed? \_\_\_\_\_. For what year? \_\_\_\_\_.)
- \_\_\_\_\_ **Paycheck stubs**—Debtor will need all stubs for the 6 months ending with the petition filing. Collect what debtor has today, & tell them to **bring subsequent stubs** to the petition signing.
- \_\_\_\_\_ **ALL Bank Statements** (deposit, credit union, brokerage, IRA, 401(k), and pension accounts) for the **six months prior to filing**. Collect what debtor has today, & tell them to **bring subsequent statements** to the petition signing. Bring the next stmt(s) to the Creditor mtg.
- \_\_\_\_\_ Credit Counseling Certificate of Completion.

#### Then determine whether any of the following is necessary :

- \_\_\_\_\_ **Deeds [Copy and return immediately]** and **mortgages** on your house or other real estate;
- \_\_\_\_\_ Any property **appraisals** or tax assessment papers;
- \_\_\_\_\_ Any **insurance policies**;
- \_\_\_\_\_ Papers relating to **past bankruptcies** (if not available, we can run PACER check later)
- \_\_\_\_\_ Legal papers, **lawsuits, eviction notices, foreclosure notices**, divorce papers, separation agreements, **spousal and child support** orders;
- \_\_\_\_\_ Any other papers you have concerning any of your debts; and
- \_\_\_\_\_ Any **lease** or installment sale ("lease purchase" or "rent-to-own") agreements for housing (apartment, house, mobile home) or other property (cars, televisions, etc.)
- \_\_\_\_\_ **OTHER** \_\_\_\_\_
- \_\_\_\_\_ **OTHER** \_\_\_\_\_
- \_\_\_\_\_ **OTHER** \_\_\_\_\_

### 2. Assess for Need

- a. Emergency? (Pending foreclosure, eviction, repo, wage order, bank account restraining order)
- b. How much do they owe? \_\_\_\_\_ How much do they pay per month? \_\_\_\_\_
- c. Judgment proof? (No wages, bank accts or other property subject to seizure or lien)
- d. Quasi-judgment proof
  - Not working now, but will be working;
  - Bank acct frozen in the past;
- a. Check for reasons to file Chapter 13 instead
  - 1) Too much home equity or other property for Ch. 7
  - 2) Mortgage or Auto loan arrearages
  - 3) Disposable income (\$100/mo or more left after living expenses)
  - 4) Debts from property division in a divorce
  - 5) Debts to a non-governmental creditor to pay off non-dischargeable tax debts

If Chapter 13 would be better, give brief advice & refer to Lawyer Referral.

### 3. Triage and Retention (Mark one)

\_\_\_ **JUDGMENT PROOF/doesn't need a bankruptcy:**

- Give judgment proof packet, but keep questionnaire & screening form. Advise them how to use it.
- Tell them: "We will keep your questionnaire for six (6) months, but otherwise do nothing. If your bank account is frozen in that time, call us back. We MAY be able to assist you in getting the money released. If the problem persists, we can discuss the bankruptcy option again."

\_\_\_ **ADVICE & REFERRAL** (debtor is either ineligible for services, or otherwise neither jpruf nor accepted):

- Fill out the "Advise and Close Letter," filling in the reason the debtor can't be helped by us, as well as any incidental advice or referrals. (We'll copy & give to client).

\_\_\_ **DECISION DEFERRED (Client wants/needs BK but we cannot immediately assign case):**

- Tell the debtor that we'll take their case under consideration and get back to them.
- Keep the questionnaire & screening form; copy the documents. Do not give retainer.
- Have debtor complete and sign the OCR Credit Report Consent and Release
- Fill out a copy of the "No Promises" letter, with date and debtor's name (We'll copy & give to client, along with page one of this form—their "To Do List").

\_\_\_ **ACCEPT for bankruptcy petition preparation:**

**Conclude Interview**

- a. Advice re: further borrowing
- b. Have debtor complete and sign the OCR Credit Report Consent and Release
- c. Show the client the front of this Checklist and say "I'm going to give you a copy of this."
- d. Explain we'll do nothing until we have the docs marked with an arrow, including credit coun.
- e. Give them the Credit Counseling Instructions and tell them to do it.
- f. If you are taking this case, you can direct the client to get the missing docs to you, or us. If you have not decided to take the case, tell the client to bring the docs to NYC BAP.
- g. Give the client the petition preparation retainer to review and sign.
- h. Read the **bold paragraph** to the debtor, ask them to initial.
- i. Tell them to read the rest of it before they sign (read it to them if necessary).
- j. After they read and sign, you can sign it for NYC BAP, or ask NYC BAP staff to sign.
- k. Put everything pertaining to this case into the file folder.
- l. Give the folder to NYC BAP staff for copying.
- m. Direct the client back to the waiting area to await the return of their documents.
- n. Staff will scan the docs & make copies for the client of the retainer and p. 1 of these instructions.

### 4. Conflicts

For each question, if the answer is yes, list the involved creditor(s) below. **Include any creditors listed here in the conflict check you perform.**

- \_\_\_ Has any creditor commenced a collection action against you?
- \_\_\_ Have you sued, disputed or challenged a debt in which the other party had an attorney?
- \_\_\_ Does debtor have only one creditor?
- \_\_\_ In the last 90 days, have you taken a secured loan or paid a creditor more than the minimum?
- \_\_\_ Is there any other unsecured creditor to whom you owe more than \$50,000?
- \_\_\_ Is there an unusual or disproportionate debt you have to one creditor?

**Potentially adverse creditors and any other notes:** \_\_\_\_\_

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