

PRACTICAL CONSIDERATIONS AND PITFALLS

Most of the responsibilities of the debtor involve the accurate and complete reporting of information. Full disclosure of all information required in the schedules and statement of financial affairs is the key. Accurate and timely information enables a Trustee to evaluate the assets available to the estate at the time the case is filed, as well as the likelihood of recovery of any pre-petition, transferred assets. If the debtor provides accurate information in an orderly and timely fashion, the case will run much more smoothly for all parties involved.

Below is a check list of practical considerations for Debtors counsel to ensure the debtor has provided accurate and complete disclosure of information and enable the section 341 meeting to run smoothly and efficiently.

- (1) Go over and explain all the questions on the schedules and statement of financial affairs to the debtor in detail. Ensure the debtor understands what the questions are asking and what their duties are in accurately and thoroughly responding. Verify the forms used are the updated and current versions of the required schedules and statement of financial affairs.
- (2) Stress the importance of full and accurate disclosure and the consequences of non-disclosure (including criminal offenses) and loss of discharge, as well as the continuing and ongoing responsibility to update or supplement the schedules during the course of the case.
- (3) Pay close attention to deadlines as required by the Bankruptcy rules and Local rules for filing documents and timely request extensions of these deadlines if unable to comply.
- (4) Particular attention and care should be given with debtor's whose response are "not exactly", "not in my name", "not any more", or worst of all, "not

that any one knows about”. Remember, the attorney that signs the petition has ultimate responsibility.

- (5) If a Chapter 7 debtor has non-exempt property, notify the Trustee’s office prior to the 341 meeting of creditors, so that appropriate arrangements can be made regarding this. Debtor’s counsel should, as a general rule, e-mail a message to the Trustee or their staff advising of the nature of the property, the location of the property, and the contact person’s name and telephone number as well as whether there is any insurance in effect.
- (5) Be prepared. Prepare your client and yourself for the 341 meeting of creditors prior to its commencement. Go over the questions generally asked, verify the accuracy of the information on the schedules, and whether any changes have occurred and determine appropriate amendments that may be required. Enlighten the client that they need to be familiar with the information on the schedules and how the information was obtained.
- (6) Verify the exemptions have been properly claimed and if required, prepare and file all appropriate amendments prior to the 341 meeting and alert the the Trustee well ahead of the hearing date.
- (7) Review your client’s file prior to the 341 and any changes, additions or amendments that will be necessary to bring this to the Trustees attention before the commencement of the 341 MOC.
- (8) Inform the clients that a joint case requires both debtor’s attendance at the 341 meeting.
- (9) Have the debtor assemble appropriate documents, such as additional bank statements, tax returns, divorce papers, lawsuits, deeds, mineral interests,

etc. that may be requested by the Trustee primarily if non-exempt assets exist or questionable activity.

- (10) If the debtor operates a business and has outstanding accounts receivable, the Trustee will need a list of all receivables, as well as the back up invoices, purchase orders, etc. which will be required for collection. If there are tangible assets provide any insurance verification and make sure the Trustee is named as loss payee if appropriate.
- (11) In converted cases, from chapters 11 or 13, provide the Trustee with redline of the amended schedules, showing the amended provisions. Always prepare your client to testify to the changed circumstances and go over the questions the Trustee will be asking in the 341 moc. Any additional assets that were obtained during the course of the Chapter 13 or 11? What happened, What caused the conversion
- (12). REVIEW all documents that you are providing to the Trustee ie- Bank Statements , TAX returns and the 341 sworn testimony.... Make sure the schedules and the documents are consistent with one another. Additionally make sure the tax returns have been prepared and filed properly.....
Married, Single, HHH etc.
- (13) Last and most importantly, be friendly and courteous toward the Trustee and staff. This will certainly be to your advantage as these people will make your job easier and your performance better. If you treat the Trustee's personnel fairly, courteously and with some understanding and cooperation, they will meet you more than half way. We all make mistakes. The Trustee's staff can help you correct yours and lessen any negative impact on the administration of the estate. Also, the Trustee's staff are a

very important source of information about the case administration, the status of the case, and generally the way things work. Don't abuse this important source of assistance for you.

TOP TEN LIST: TEN WAYS *NOT* TO WIN THE TRUST AND CONFIDENCE OF YOUR TRUSTEE.

10. Don't bother scheduling d/b/a's, a/k/a's, on the statements of financial affairs (SoFA), or disclosing this information on the petition. It will only confuse the Trustee.

9. Don't schedule other or prior bankruptcies of your client. This is another source for confusion.

8. On schedule A, only put the real property owned in the county where the debtor lives; the Trustee doesn't care about out-of-county, out-of-state or out-of-country properties.

7. Encourage clients to transfer property to their friends and family prior to filing. Do not bother disclosing these transfers on the statement of financial affairs.

6. On schedule B, don't list assets that might be considered property of the estate, like trusts, limited family partnerships, or potential lawsuits, cryptocurrency, Pay Pal accounts.

5. On schedule C, you might as well go ahead and claim both state and federal exemptions. That way, you maximize your client's exemptions. Do not worry about whether the asset is really exempt or not, claim everything, the Trustee won't notice.

4. When the Trustee asks for documents within 10 days, don't turn them over for at least two months; he or she doesn't really want or need them anyway.

3. When you file a corporate case with assets, don't bother either calling or returning the Trustee's phone calls or even filing schedules; it's better to do these things at the last minute. "Keep 'em guessing".

2. Don't show up at the § 341 meeting or have one or both of your clients not show up. Another way is to show up late and expect the Trustee to wait for you to come. No need to call ahead. Trustees are public servants.

1. Charge at least \$5,000.00 for your simple Bankruptcy filing; after all, you're worth it.

Section 341 Meetings with Trustee Northrup

Attorney and/or Debtor:

The 341 meetings are to be held by telephone. We have been through this a few times, so most of you are familiar with this outline, here is how we do it:

1. Debtor Identification:

I need a copy or picture emailed to me of the debtor SS card and driver's license before we conduct the 341 meeting in addition to the past two filed tax returns, 90 days of bank statements and the 341 questionnaire. If those documents have not been previously sent, please send them to me ASAP. If you uploaded them or sent them to me prior to today, no need to resend. Uploading into Blue Stylus is preferred. Email is the second choice. Please email the documents to me at lslater@hwa.com. Before the Trustee will begin questioning the debtor, you will need to confirm that you reviewed and confirmed the ID documents provided to my office.

Please note that after the 341 meeting is concluded the electronic file and/or all copies of driver's licenses and SS cards will be auto-deleted. The email will also be deleted, that included the attachment of this information. We also recommend that your office also delete the email that you sent including this information, (after the meeting), that way someone cannot access the attachment if they get into your or my email account.

2. Call-In Procedure:

Please call in 10-15 minutes before your scheduled time on the date that the 341 meeting is set. The telephone conference is set up as one large on-going conference call. Place your telephone on MUTE until I call the case and you are actually responding to a specific question, then un-mute and answer, then re-mute the phone. There may be some delay between questions and answers caused by this process, so please be patient. The meeting will be digitally recorded from my end of the conference call. PLEASE advise your clients to MUTE their phones immediately when they come on the line. Additionally, there cannot be two people in close proximity on two different phones during the conference, as this will also create feedback on the line preventing us from conducting the meetings. DO NOT put your phones on hold during the meetings or we will have to disconnect and reconnect to the conference line.

There is one call in number:

The participant code is:

This participant code is particular to my meetings. Do not use a code for another trustee.

If at all possible, use a land line.

If for some reason I get cut off the conference call during the meeting, everyone will be dropped. Be patient, I will call back in, start the conference call over, and you will need to call back in. Each party needs to have in front of them at their location the bankruptcy petition, schedules, and statement of financial affairs which are on file in their case.

3. Case Order:

Be patient, we have generally worked through the docket on the telephonic meetings at a fair pace. If you are late getting on the conference call and missed hearing your case called, I will come back to your case. Do NOT interrupt to inform me that you are on the line during a meeting. Wait until the meeting is over and I have turned off the recorder. I will endeavor to call all cases over and over until we are done.

If you have not already done so, please send all your documents ASAP. Please list your case number on the email reference line when you send me your information.

Thank you for your cooperation.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: § CASE NO.
Debtor(s) §
§ Chapter 7
§

341(a) MEETING QUESTIONNAIRE AND SWORN TESTIMONY

The answers and information provided by the Debtor(s) in this document are a part of the Debtor(s) sworn testimony given before the Chapter 7 Trustee or the Trustee's designated representative. Debtor(s), you must read the questions stated below and answer fully and completely (Singular tense shall be interpreted as Plural tense when the case is a joint filing).

TO THE EXTENT THAT ANY OF THE FOLLOWING INFORMATION IS NOT SHOWN IN YOUR PETITION, SCHEDULES, OR STATEMENT OF FINANCIAL AFFAIRS OR, IF ANY OF THIS INFORMATION IN THOSE DOCUMENTS HAS CHANGED, PLEASE ANSWER THE FOLLOWING AND IMMEDIATELY AMEND YOUR PETITION, SCHEDULES, OR STATEMENT OF FINANCIAL AFFAIRS HIGHLIGHTING THE INFORMATION THAT HAS BEEN ADDED, CHANGED, OR DELETED:

	Debtor	Joint Debtor
Name(s):	_____	_____
Address:	_____	_____
	_____	_____
Telephone (home):	_____	_____
Employer(s):	_____	_____
Address:	_____	_____
	_____	_____
Telephone (work):	_____	_____

Non-Filing Spouse

Name:	_____	_____
Address:	_____	_____
	_____	_____
Telephone (home):	_____	_____
Telephone (work)	_____	_____

GENERAL INFORMATION

- | | Debtor | Joint Debtor |
|--|--|--|
| 1. Have you ever filed bankruptcy before? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| a. If yes, when? _____ Where? _____ | | |
| b. Chapter? _____ Did you receive a discharge? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. I have the following outstanding liabilities: | | |
| a. Child Support (See Question No. 44) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| b. Student Loans | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c. Taxes | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| d. Claims for death or personal injury | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| e. Obligations to pension or profit sharing | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |

KNOWLEDGE OF IMPORTANT BANKRUPTCY ISSUES

3. I am an individual debtor. I know my case will be dismissed on the 46th day after I filed this bankruptcy if certain documents are not timely filed. Yes No
4. I have provided my attorney or the Trustee with the following documents:
 All bank statements for the three months prior to the bankruptcy filing
 Last two years tax returns
 Disabled Veteran's letter (if applicable)
5. The majority of my debts were incurred primarily for personal, family or household purposes. Yes No
6. I understand that I must provide to my attorney or the Trustee all bank statements for the month of filing. Yes No
7. I received, read, and understand my duty to comply with the Duties and Responsibilities of a Debtor Under Chapter 7. Yes No
8. I received, read, and understand the Statement of Information required by 11 U.S.C. § 341 prepared by the Office of the United States Trustee. Yes No
9. I read and signed the Bankruptcy Petition, Schedules, and Statement of Financial Affairs before these documents were filed with the Court. Yes No
10. I understand the questions and information contained in my Bankruptcy Petition, Schedules, Statement of Financial Affairs and this written Sworn Testimony. Yes No
11. I personally signed my Bankruptcy Petition, Bankruptcy Schedules and Statement of Financial Affairs, and Means Test before these documents were filed with the Court. Yes No
12. I understand that all property owned by me may be liable for my domestic support obligations. Yes No n/a

13. I understand that within thirty days of my initial meeting of creditors I must reach an agreement with my secured creditor(s) (with purchase money collateral) and either surrender the asset, redeem the asset or reaffirm the debt or the automatic stay will terminate. Yes No

QUESTIONS RELATED TO ASSETS

14. In my Bankruptcy Schedules, I have accurately listed everything that I own including real estate, personal property and money. Yes No
15. I understand that any unreceived tax refund for this and any prior tax years is an asset of the bankruptcy estate and that I must tell my Trustee when I receive these refunds if such funds exceed the amount reflected in my schedules or are not listed in my Schedules. (Please refer to the debtor's Duties and Responsibilities). Yes No
16. I have lived in Texas for the last 730 days (2 years). Yes No
a. If no, list the States you resided in the last 730 days (2 years):
State: _____ From: _____ To: _____
State: _____ From: _____ To: _____
17. I have listed, on Schedule C, real estate located in Texas: Yes No
a. If yes, were you living there on the date of your bankruptcy filing? Yes No
b. Is it within the city limits? Yes No
c. If it is located outside the city limits, how many acres is it? _____
d. Is the equity in the property in excess of \$146,450.00? Yes No
18. Did you purchase your home during the four years before filing this bankruptcy? Yes No
a. If yes, state the date the property was acquired: _____
19. Have you, within the last 10 years, owned any interest in real estate anywhere that is NOT listed in your schedules? Yes No
a. With respect to any real estate not listed in Schedule A, has it been sold or foreclosed? Foreclosed Sold When? _____ Yes No
b. If sold, were you paid in full at closing? Yes No
c. If sold, did you sell it to a friend or relative or family member? Yes No
20. Do you receive or are you entitled to receive any payments from a loan of any kind (such as a contract for deed, promissory note, personal loan, etc.)? Yes No
21. Do you currently have any nonbanking deposit accounts such as PayPal, Amazon, online gambling, casinos, etc? Yes No
22. Do you have any unused reward points, gift cards, gift certificates, or airline tickets? Yes No
23. Do you own any rental property? Yes No
a. If yes, what are the rental payments? _____

- b. If there is a lien against the rental property, how much is the monthly payment? _____ Lender: _____ Lien Amount: _____
24. Have you operated a business during the last six years? Yes No
 a. If yes, state the name of the business(es): _____
 b. State the amount of gross revenues to each business:
 This year: _____ Last year: _____
 c. Do you intend to continue operating the business(es)? Yes No
 d. If yes, please list which business(es): _____
25. Is all non-exempt property insured, other than cash on hand? Yes No n/a
26. Did you transfer, sell or convey any real or personal property with a fair market value of more than \$2,500 in the last four (4) years? Yes No
27. Have you ever been the trustee, beneficiary or settlor of a trust? Yes No
28. Have you transferred anything into a trust within the last ten (10) years from the filing date? Yes No
29. Is anyone holding any of your property? Yes No
 Name: _____ Address: _____
30. Do you have any type of retirement account or plan? Yes No
31. Have you ever made a contribution to a retirement account or plan that is greater than the amount allowed under the IRS tax code to be made with pre-tax dollars? Yes No
32. Have you placed money in an educational individual retirement account or state tuition fund within one year prior to the filing of this bankruptcy? Yes No
 a. If yes, How much? _____ When? _____
33. Did you lose in excess of \$2,500 gambling in the last year? Yes No

QUESTIONS RELATING TO CREDITORS

34. I have listed, in my Bankruptcy Schedules, everyone to whom I owed money on the date I filed this bankruptcy, including friends and relatives. Yes No
35. Have you made payments to the IRS greater than necessary to pay taxes currently due, e.g. have you prepaid any taxes? Yes No
36. Within the last four (4) years, have you asked the IRS to apply any tax overpayments to a subsequent tax year? Yes No
37. In the last year, did you make payments on your mortgage or to any other creditor of more than \$1,000.00 greater than the regularly required payment? Yes No
 a. If yes: To whom: _____ How much: _____

38. Do any of the claims against you arise from a violation of the Federal Securities Laws? Yes No
39. Are any of the claims against you based on an alleged claim of fraud, deceit or manipulation in a fiduciary capacity or in the purchase or sale of any security? Yes No
40. Do any of the claims against you arise from any alleged criminal act or intentional tort or willful or reckless misconduct that caused serious physical injury or death to any individual within the last five years? Yes No
41. Has anyone sued you for death or personal injury resulting from the operation of a motor vehicle, vessel or airplane? Yes No
42. In the last two years, did you repay any money borrowed from your relatives or in-laws? Yes No
- a. If yes, Name: _____ Relation: _____
When? _____ How much? _____.
43. In the last year did you make payments on loans from your pension or savings loan? Yes No
44. If you owe child support payments or other domestic support obligations, list the full name and last known address of the party to whom the CSO/DSO is due and the name of the agency the support payment is paid through (if applicable).

Party to whom CSO/DSO is due (if more than one, please list on back)	Agency support payment is paid through (if more than one, please list on back)
Name: _____	_____
Address _____	_____
_____	_____
_____	_____
Telephone: _____	_____

Number of Dependents: _____

QUESTIONS RELATING TO LITIGATION OR CLAIMS

45. Do you have any claims or potential claims or lawsuits against anyone whether or not a lawsuit has been filed? Yes No
46. Within the year prior to filing, have you conferred with an attorney other than your bankruptcy attorney regarding any claims, potential claims, or lawsuits against anyone? Yes No
47. Are you presently involved in a divorce proceeding or have you been Yes No

involved in a divorce proceeding within the last four years?

YOU HAVE A LEGAL OBLIGATION TO PROVIDE THE TRUSTEE WITH TRUTHFUL, CORRECT, AND COMPLETE INFORMATION REGARDING YOUR CASE INCLUDING THE INFORMATION PROVIDED IN THE SCHEDULES, STATEMENT OF FINANCIAL AFFAIRS, THE FOREGOING QUESTIONS AND YOUR TESTIMONY AT THE 341 MEETING. IF YOU DISCOVER, LEARN OR REALIZE THAT ANY OF THE ANSWERS OR INFORMATION THAT YOU PROVIDED IS INCOMPLETE OR INCORRECT IN ANY WAY, YOU MUST IMMEDIATELY AMEND YOUR SCHEDULES ON THE APPROPRIATE FORM HIGHLIGHTING THE INFORMATION THAT HAS BEEN ADDED, CHANGED, OR DELETED.

IN ADDITION, IF YOU RECEIVE MONEY OR PROPERTY THAT SHOULD HAVE BEEN BUT WAS NOT LISTED IN YOUR SCHEDULES, STATEMENT OF FINANCIAL AFFAIRS OR IN ANSWER TO THE QUESTIONS ABOVE, YOU MUST NOTIFY THE TRUSTEE IMMEDIATELY IN WRITING AND PRESERVE THE MONEY OR PROPERTY UNTIL THE TRUSTEE DIRECTS YOU TO TAKE A SPECIFIC ACTION. YOU MUST NOT USE OR OTHERWISE DISPOSE OF IT WITHOUT THE TRUSTEE'S PERMISSION.

IF YOU HAVE A QUESTION OR NEED INFORMATION REGARDING YOUR CASE AND ARE REPRESENTED BY AN ATTORNEY, PLEASE CONTACT YOUR ATTORNEY. IF YOUR ATTORNEY DOES NOT RESPOND, YOU MAY CONTACT THE TRUSTEE IN WRITING BUT SEND A COPY OF SUCH CORRESPONDENCE TO YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, PLEASE REQUEST INFORMATION IN WRITING. NEITHER THE TRUSTEE NOR THE TRUSTEE'S EMPLOYEES CAN PROVIDE YOU WITH LEGAL ADVICE OR REPRESENTATION.

QUESTIONS REGARDING YOUR DISCHARGE SHOULD BE DIRECTED TO YOUR ATTORNEY OR TO THE BANKRUPTCY CLERK'S OFFICE.

I have read the foregoing and understand the questions. If represented by an attorney, I have reviewed the questions and answers with my attorney. The answers to the questions are mine. The answers are based on my personal knowledge and are true and correct.

Dated this _____ day of _____ 20____.

Print Name:

Print Name:

ATTORNEY ACKNOWLEDGMENT

As the attorney of record, I have reviewed and discussed the contents of this document with the Debtor(s). I am not aware of any contrary information. Furthermore, the contents of this document have not been altered from the form provided by the Panel Trustees.

ATTORNEY FOR DEBTOR(S)

