Perspectives of Individual Chapter 11 Cases

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Individual Chapter 11 Cases – Debtor Perspective

In certain situations, filing a chapter 11 for an individual may make practical sense or it may be the only chapter of relief available. An example of the former is that the debtor, because of the value of his assets, would not be able to file for chapter 7 relief without risking the loss of some or all of the assets, cannot satisfy the liquidation test within five years, and wants to keep all of the assets, if he is so able. An example of the latter is if a debtor has net disposable income, assets that would be administered by a chapter 7 trustee, the debtor is not a family farmer or fisherman, and/or debtor's debt amounts exceed the jurisdictional debt limits set forth in 11 U.S.C. § 109. A debtor may wish to file for chapter 11 relief rather than another chapter in order to control which assets get sold and in what fashion. He may also wish to file for chapter 11 relief, rather than another chapter, in order to structure payments in a manner that best matches his budget, without having to worry about whether a trustee will challenge such payment scheme.

If an individual does file for chapter 11 relief, that person has the rights and powers of a trustee, other than the duties outlined in 11 U.S.C. § 1106(a)(3), (4) and (6). This means that, effectively, he is in charge of the estate and the administration of the estate, with oversight from the Office of the U.S. Trustee.

Budget Matters

Individual debtors who file for chapter 11 relief are required to pledge the total amount of five-years' worth of net projected disposable income as funding for the plan, unless unsecured creditors are paid in full and this income is determined by 11 U.S.C. § 1325(b)(2). 11 U.S.C. 1129(a)(15)(B); *see also, In re Rodemeier*, 374 B.R. 264 (Bankr. D. Kan. 2007); *In re Bennett*, 2008 Bankr. LEXIS 1354, n. 6, *7-*8 (Bankr. E.D. Va. 2008). Previously, there had been a split as to what "projected" meant, however this dispute was resolved in *Hamilton v. Lanning*, 560 U.S. 505, 130 S.Ct. 2464, 177 L.Ed. 23 (2010). In *Lanning*, the Supreme Court affirmed the Tenth Circuit Court of

Appeals' ruling that in calculating a debtor's projected disposable income, a bankruptcy court should take a "forward looking approach". Thus, when determining a debtor's projected disposable income, there is a presumption that the figures indicated in the means test are accurate, however, if there is a change in circumstances, such change should be considered in such determination. A bankruptcy court may consider changes in the debtor's income or expenses "that are known or virtually certain at the time of confirmation." *Id.* at 2478. Although a chapter 13 case, the analysis in Lanning, should be applicable in individual consumer chapter 11 cases as well, since § 1129(a)(15) incorporates § 1325(b)(2). It is important to note, however, that 11 U.S.C. § 1115 does not require that the plan payments come from disposable income; it only requires that the "value of the property" to be distributed under the plan be equal to the value of disposable income over a five-year period. Therefore, a debtor could propose to sell an asset to fund the plan rather than a plan funded by future income, as long as the value of the sale equals the amount of the debtor's projected disposable income over the required period of time. In addition, courts typically have taken the view that he amount to be paid equaling the amount of five-years' worth of income is the amount paid to all of the creditors under the plan, not just unsecured creditors (unlike in chapter 13 cases). *In re Gordon*, 465 B.R. 683, 693, n. 8 (Bankr. N.D. Ga. 2012); *In re Gbadebo*, 431 B.R. 222, 226 (Bankr. N.D. Ca. 2010).

The household income and expenses may be another reason why an individual may elect to file for chapter 11 relief. In theory, electing chapter 11 may provide the debtor with some review by a trustee as to the reasonableness of certain household expenditures, such as a rental home, a vehicle that is considered a luxury (such as a Bentley) or other similar type of expenses. However, because post-petition earnings are considered, for the most part, property of the estate, counsel for an individual debtor should consider whether court approval is necessary prior to using the earnings for personal living expenses. In *In re Goldstein*, 383 B.R. 496 (Bankr. C.D. Ca. 2007), the Bankruptcy

Court for the Central District of California, while considering whether an individual chapter 11 debtor could employ special counsel to assist in divorce proceedings, determined that an individual debtor may buy food without the need for a hearing, analogizing such a situation to that of a business debtor being permitted to use property of the estate in the ordinary course of business pursuant to 11 U.S.C. § 363(c).

In representing individual consumer chapter 11 debtors, counsel should consider the following questions: Are the expenses in question considered in the "ordinary course" so that prior approval is not necessary? When do such expenses become not necessary to preserve the estate's assets? What incentive does an individual debtor have to earn income and work hard if the earnings cannot be used as the debtor sees fit? There is a balancing act to be performed when it comes to post-petition, pre-confirmation expenses. If the expense passes the "smell test," the debtor's expenses will more than likely be acceptable. However, if the expenses offend the senses, then they are more than likely going to be scrutinized, and possibly, denied.

Property of the Estate

Pursuant to 11 U.S.C. § 1115, which was added with the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA"), a chapter 11 debtor's estate is now grouped into two broad categories of assets, in addition to the property described in 11 U.S.C. § 541: assets acquired after commencement of the case and post-petition earnings. By adding post-petition assets, it is clear that these assets should be devoted as funding for the plan.

Upon confirmation of a plan, the debtor's plan vests the property of the estate in the debtor and such property is free and clear of all claims and interests of creditors. This inconsistency exists in chapter 13 cases, as well.

There is a split of authority as to the effect of confirmation on property of the estate. Some courts considering this issue have held that the property remains in the estate until the case is closed,

dismissed or converted. *See, e.g., Fritz Fire Prot. Co. v. Chang (In re Chang)*, 438 B.R. 77 (Bankr. E.D. Pa. 2010); *In re Fisher*, 198 B.R. 721 (Bankr. N.D. Ill. 1996), *rev'd on other grounds*, 203 B.R. 958 (N.D. Ill. 1997). Other courts have held that only the property that is necessary for plan funding remains as property of the estate. *Black v. United States Postal Serv. (In re Heath)*, 115 F.3d 521 (7th Cir. 1997). Still others have ruled that all property vests to the debtor upon confirmation. *California Franchise Tax Board v. Jones (In re Jones)*, 420 B.R. 506 (B.A.P. 9th Cir. 2009). Yet another approach taken by courts is that upon plan confirmation (unless a plan provides otherwise), property of the estate vests back in the debtor, and any property acquired post-confirmation, including earnings, is considered property of the state pursuant to 11 U.S.C. § 1306(a). *In re Clouse*, 446 B.R. 690 (Bankr. E.D. Pa. 2010).

Very few cases have dealt with what is considered property of the estate post-confirmation in chapter 11 individual cases. In *Kimpel v. Meyrowitz (In re Meyrowitz)*, the Bankruptcy Court for the Northern District of Texas held that all post-confirmation income was property of the estate, and remained so until the case was either closed, dismissed or converted. 2010 Bankr. LEXIS 4853, *14-*15 (Bankr. N.D. Tex. 2010). However, the Bankruptcy Court for the Middle District of Florida held that, following confirmation, post-petition earnings were no longer property of the estate. *Baur v. Chase Home Fin., LLC (In re Baur)*, 433 B.R. 898 (Bankr. M.D. Fla. 2010). Given the lack of decisions on this point and the rise of filings by individual chapter 11 debtors, this may be litigated in the years to come, and another reason why individuals may choose to file for chapter 11 relief rather than relief under another chapter.

Absolute Priority Rule

When talking about what is property of the estate for purposes of chapter 11, one is required to consider the absolute priority rule, especially since it is not applicable in chapter 13. In chapter 11, a plan may be confirmed even if not all impaired classes have accepted the plan. Pursuant to §

1129(b)(1), a plan may be confirmed if the other requirements spelled out in § 1129(a) are met, as long as the plan does not discriminate unfairly and the plan is fair and equitable as to the non-accepting class or classes. If the class that did not accept the plan is comprised of unsecured creditors, this test, known as the absolute priority rule, requires that:

> (i) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
>
> (ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.

11 U.S.C. § 1129(b)(2)(B). 11 U.S.C. § 1129(a)(14) provides that if a debtor is required to pay, by judicial or administrative order, or by statute, a domestic support obligation, the debtor must have paid all amounts required that have come due as of the petition date in order for the plan to be confirmed.

Put simply, the absolute priority requires that, if there is a class of unsecured creditors that has not accepted the plan, the plan must provide for payment in full to those creditors before any junior class may receive or keep any property under the plan. Chapter 11 debtors are considered to hold a junior interest, in this situation. This is, without a doubt, one of the biggest hurdles facing individuals in chapter 11, if their plans do not propose a one hundred percent (100%) distribution to their creditors.

While courts across the country may be split as to whether the absolute priority rule continues to exist following the enactment of BAPCPA, the Fourth Circuit has made clear that it does, at least for cases filed within its circuit. In *In re Maharaj*, 681 F.3d 558 (4th Cir. 2012), the Fourth Circuit affirmed the Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, in its ruling that the absolute priority rule continued to apply in individual chapter 11

cases. In reaching its decision, the Fourth Circuit did find that § 1129(b) was ambiguous, but that in viewing the BAPCPA amendments in light of the context in which they were enacted and the broader goals of BAPCPA, it concluded that Congress did not intend to abrogate the absolute priority rule for individual chapter 11 debtors. *Id.* at 568.

Counsel for individual chapter 11 debtors need to be prepared, at confirmation hearings, to establish that a plan should be confirmed pursuant to § 1129 regardless of whether any creditor has objected. This means that the debtor must show that the requirements set forth in § 1129(a)(1) – (16) have been met. As the Eleventh Circuit Court of Appeals stated, "[a] court must independently satisfy itself that these criteria [in § 1129] are met. Thus, it must consider facts relating to these criteria even in the absence of an objection."[2] Counsel should be prepared to show that the plan meets all of the requirements for confirmation, including presenting evidence in support of confirmation. As part of meeting the burden, the debtor must show the plan does not violate the absolute priority rule. One way of dealing with this is to establish that "new value" is being offered for the purchase/retention of the debtor's property if creditors are not receiving 100% distributions on their claims. New value, to be acceptable, needs to be (a) new; (b) substantial; (c) in money or money's worth; (d) necessary for the reorganization to work/succeed; and (e) reasonably equivalent to the value of the interest being received. *In re Bonner Mall P'ship*, 2 F.3d 899, 908 (9th Cir. 1993); *In re Eagan*, 2013 Bankr. LEXIS 260, *15 (W.D.N.C. Jan. 22, 2013); *In re Bumgardner*, 2013 Bankr. LEXIS 747, * 24 (Bankr. E.D.N.C. Feb. 28, 2013). Courts have consistently held that new value must come from some source other than the debtor. *In re Draiman*, 450 B.R. 777, 822 (Bankr. N.D. Ill. 2011); *In re Gerard*, 495 B.R. 850 (Bankr. E.D. Wis. 2013).

[2] *In re Piper Aircraft Corp.*, 244 F.3d 1289, 1299-1300, n.4 (11th Cir. 2001).

Exempt Property and the Absolute Priority Rule

As it relates to exempt property, courts are split on whether proposing to retain such property and not pay creditors 100% is a violation of the absolute priority rule. Prior to the applicability of BAPCPA, Judge Paskay ruled, in *In re Henderson*, 321 B.R. 550 (Bankr. M.D. Fla. 2005), *aff'd*, 341 B.R. 783 (M.D. Fla. 2006), that exempt property may be retained by a chapter 11 debtor even if unsecured creditors were not receiving payment in full. In *In re Maharaj*, 449 B.R. 484, 493 n.4 (Bankr. E.D. VA. 2011), aff'd, 681 F.3d 558 (4th Cir. 2012), Judge Mitchell stated:

> Prior to BAPCPA, there was a division of opinion as to whether an individual debtor's retention of exempt property violated the absolute priority rule. *Compare In re Gosman*, 282 B.R. 45 (Bankr. S.D. Fla. 2002) (holding that absolute priority rule was not satisfied even if the property retained was exempt), *with In re Egan*, 142 B.R. 730, 733 (Bankr. E.D. Pa. 1992) ("[I]f debtors intend to retain only *exempt* property, then they are merely retaining that which is their absolute right to retain in any event, and they are not, properly speaking, receiving or retaining 'any interest that is junior to the interests' of any class of creditors"). Because the debtors here are retaining property in excess of what they have claimed exempt, the court need not reach that issue. The *Egan* analysis, however, does seem more consistent with § 1123(c), Bankruptcy Code, which prohibits anyone other than the debtor from proposing a plan that provides for the use, sale, or lease of exempt property, and for that reason the court is inclined to hold that retention of exempt property does not violate the absolute priority rule.[3]

Several other courts have agreed with the analysis that allows a debtor to retain exempt property and not run afoul of the absolute priority rule. *See, e.g., In re Bullard*, 358 B.R. 541 (Bankr. D. Conn. 2007) (debtor may retain exempt property and still confirm a chapter 11 plan under cram-down provision of § 1129(b)(2)(B)(ii)); *In re Karlovich*, 456 B.R. 677, 680 n. 1 (Bankr. S.D. Ca. 2010) (debtor may exempt property pursuant to §522, and property of the estate includes non-exempt property, plus whatever is added by §1115); *In re Brown*, 498 B.R. 486 (Bankr. E.D. Pa. 2013) (exempt property is no longer considered property of the estate and may be retained by the debtor per §522 and not

[3] It should be noted that the Fourth Circuit, in *Maharaj*, suggests that the absolute priority rule applies whether the debtor proposes to pay exempt or non-exempt property when it stated that "[t]o the contrary, plan acceptance is still very much a possibility, even within the confines of the absolute priority rule. Debtors may negotiate a consensual plan, pay higher dividends, pay dissenting classes in full, or comply with the [absolute priority rule] by contributing prepetition property." *Maharaj*, 681 F.3d at 575 (internal quotes and citations omitted).

violate the absolute priority rule); *In re Steedley*, 2010 Bankr. LEXIS 3113 (Bankr. S.D. Ga. Aug. 27, 2010) (debtor may retain exempt property without violating the absolute priority rule but to the extent there may be equity in some of the debtor's prepetition property, retention of nonexempt property would rule afoul of the rule).

Various Requirements Once the Client Decides to Seek Relief under Chapter 11

A. Reporting Issues and Other Fiduciary Obligations on the Part of the Debtor

Unlike in chapter 13 cases, individuals in chapter 11 cases are required to attend an initial debtor interview ("IDI") with the Office of the U.S. Trustee. The main focus of the IDI is to discuss financial and background information. At the IDI, the debtor should be prepared to provide a historical background of his finances, as well as the primary reason for the filing of the chapter 11 bankruptcy. At the IDI, the representative for the United States Trustee typically asks questions regarding how the debtor plans to proceed through the chapter 11, and the proposed timetable for the case. The debtor may also be asked various accounting questions. In addition, there may be questions regarding the debtor's schedules and bankruptcy statements, in order to identify any inconsistencies or omissions.

At the conclusion of the IDI, the United States Trustee's representative will discuss case management matters, and there will be a written report regarding the debtor's case, to be used by the United States Trustee's trial attorney at the 341 meeting of creditors.

At the IDI, the representative for the United States Trustee will discuss the statutory duties and obligations of the debtor. Typically, the chapter 11 operating guidelines are provided, as well as the form for the monthly operating reports. The procedures for calculating and paying the quarterly fee assessed pursuant to 28 U.S.C. § 1930(a)(6) are also explained at the IDI. The United States Trustee's representative will also discuss the need of the debtor to close former bank accounts

and establish new, debtor in possession bank accounts. Finally, the debtor will be required to maintain the appropriate insurance on property of the estate.

The role of the United States Trustee in the administration of chapter 11 cases will be discussed at the IDI. The debtor will be advised that the United States Trustee will take appropriate measures to protect creditors' interests and the circumstances under which the United States Trustee will take such action.

Finally, the debtor's obligation to comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, local rules, and any court order, will be discussed at the IDI, as well as the fact that post-petition debts must remain current and pre-petition debts may not be paid. The debtor will be instructed to close the debtor's books and records as of the date of filing and to open new post-petition books and records.

B. Bank Accounts

There is a requirement that the debtor's pre-petition bank accounts be closed and new debtor in possession accounts be opened. Absent court authorization, the accounts may be maintained only in depositories that agree to post a bond or pledge securities for all deposits not insured or guaranteed by the United States. The debtor should establish a separate general account for the purpose of paying bills incurred during the administration of the case. The debtor should also establish a separate tax trust account so that he may escrow the necessary funds for the payment of post-petition taxes (including, for example, real estate taxes) when such liabilities are incurred. The account checks and statements should be imprinted with the phrase "Debtor in Possession" or "DIP." These captions on the checks are intended to notify creditors and third parties that the debtor is operating under the protection of the bankruptcy court. Notice is thereby given to all persons who may receive the check that they are doing business with a debtor and that they may have different rights and responsibilities than when dealing with a non-debtor individual or entity,

i.e., that they may have an administrative claim if the check is not honored. Creditors receiving such checks for the improper, unauthorized payment of pre-petition debts may disclose this information to the court and the United States Trustee, who may take corrective action.

C. Insurance

The debtor must maintain appropriate insurance coverage, and documentation regarding the existence of the coverage must be provided to the United States Trustee as early in the case as possible. The dollar amount of the insurance coverage must be sufficient to cover the fair market value of the estate's property. The extent of coverage must be adequate, given the circumstances of the case.

D. Financial Reports

These reports are designed to provide the United States Trustee, the court, creditors, and other parties in interest with reliable information regarding the current status of a Case. The debtor must file operating reports each month throughout the pendency of the case. A deadline for the submission of the initial report should be set at the IDI and will be 15 days after the prior month has ended. The report must be filed with the Bankruptcy Court.

E. Employment of Professionals

Unlike in chapter 13 cases, if an individual debtor wishes to employ professionals, including bankruptcy counsel, then an application to employ must be filed with the Bankruptcy Court and an order approving such employment must be entered. Employment of professionals must be approved pursuant to 11 U.S.C. § 327. An attorney may be debtor's counsel as long as the attorney does not hold or represent an interest adverse to the estate. The Bankruptcy Code does not define the term "adverse," however, it has been interpreted to mean:

> to possess or assert any economic interest that would tend to lessen the value of the bankruptcy estate or that would create either an actual or potential dispute in which the estate is a rival claimant; or (2) to possess a predisposition under circumstances that render such a bias against the estate.

In re AroChem Corp., 176 F.3d 610, 623 (2d Cir. 1999). An attorney must also be disinterested, as defined in 11 U.S.C. § 101(14). The attorney cannot be either a creditor or insider of the debtor. Finally, the attorney for the debtor cannot have an interest that is materially adverse to the bankruptcy estate, any class of creditors, and cannot have a connection with, or interest in, the debtor.

Fees paid to debtor's counsel also must be approved by the Bankruptcy Court before they are received. In addition, counsel cannot request compensation within the first 120 days after the filing of the bankruptcy petition. Pursuant to 11 U.S.C. § 331, any subsequent interim applications must be filed no more frequently every 120 days thereafter, absent the permission of the Court.

F. Filing of Disclosure Statement & Plan

Unlike in chapter 13 cases, the individual chapter 11 debtor is not required to immediately file a plan of reorganization. The debtor has an exclusive period to file a plan within 120 days from the date the order for relief was entered. This time period may be extended by up to 18 months, for cause, after notice and a hearing. In individual chapter 11 consumer cases, the plan must be accompanied with a disclosure statement. The disclosure statement must comply with 11 U.S.C. § 1125, meaning it must contain adequate information, which assists in allowing a "hypothetical investor" to make an informed decision about the plan. A debtor must provide 20 days notice of the hearing scheduled on the approval of the disclosure statement and the deadline to object to the disclosure statement. Fed. R. Bankr. P. 2002(b). The debtor must also give at least 28 days notice of the confirmation hearing and deadline to object to confirmation. Fed. R. Bankr. P. 2002(b).

Post-Confirmation Issues

A. Modification of Plans

Prior to the enactment of the BAPCPA, a confirmed chapter 11 plan could only be modified if substantial consummation had not occurred. Now, pursuant to 11 U.S.C. § 1127(e), an individual

debtor's plan may be modified at any time after confirmation of the plan but prior to completion of the plan payments, regardless of whether there has been substantial consummation. 11 U.S.C. § 1127(e). The debtor, the trustee (if applicable), the U.S. Trustee or unsecured creditors may propose modification. The modification may include: (a) increasing or decreasing the amount of the plan payments; (b) extending or reducing the term of the plan; or (c) altering the amount to be paid to a creditor in order to account for payments received outside the plan. There are no guidelines in the Bankruptcy Code for when a modification may be authorized. In chapter 13 cases, modifications are permitted, but only where there has been an "unanticipated and substantial change." *In re Arnold*, 869 F.2d 240 (4th Cir. 1989); *Murphy v. O'Donnell (In re Murphy)*, 474 F.3d 143 (4th Cir. 2007). Arguably, if a party wishes to seek modification in a chapter 11 case when a plan has been confirmed, that party will need to establish an unanticipated and substantial change.

B. Early Discharge

A discharge may be granted in a chapter 11 case after plan confirmation but before all payments due under the plan are made. An early discharge may be granted if:

- Unsecured creditors have received at least as much as they would in a chapter 7 liquidation;
- Modification pursuant to § 1127 is not practicable;
- The debtor has not been convicted of a felony indicating an abuse of the bankruptcy system; and
- The debtor does not owe any debts associated with SEC violations.

If it is anticipated that the individual debtor may wish to seek an early discharge, counsel should include a provision in the disclosure statement and plan indicating this intention.

C. <u>Early Closing of Case</u>

Since the enactment of BAPCPA, individual chapter 11 debtors have been seeking early closing of their cases following plan confirmation. Some courts have been receptive to this, while

others have not granted such relief. Those courts that have allowed early closings have done so based on the facts and circumstances of those cases. *In re Sheridan*, 391 B.R. 287 (Bankr. E.D.N.C. 2008); *In re Johnson*, 402 B.R. 851 (Bankr. N.D. Ind. 2009). In *Johnson*, the reason for seeking an early closing of the case, prior to entry of discharge, was to put an end to the U.S. Trustee quarterly fees. The court reasoned that an early closing would benefit creditors, because it would actually result in higher distributions since the debtor would no longer have the added expense of the fees, and thus granted the debtor's motion to close the case early.

In *In re Ball*, the Bankruptcy Court for the Northern District of West Virginia denied the debtor's request for an early closing, and this denial was based upon the short length of time the plan had been confirmed, the funding of the plan was coming from the sale of the debtor's condominium and the term of the plan was not long. *In re Ball*, 2008 Bankr. LEXIS 1532 (Bankr. N.D. W.Va. 2008). The *Ball* Court noted that it was leaving "for another day the issue of whether such an accommodation [allowing case to close early] would be appropriate in an individual Chapter 11 case of more significant duration, such as a five-year plan required under § 1129(a)(15). *Id.* at *11.

Closing is permitted, pursuant to 11 U.S.C. § 350, once the bankruptcy estate has been fully administered. In a chapter 11 case, a case has been fully administered once a plan is "substantially consummated." Fed. R. Bankr. P. 3022 deals with the closing of a chapter 11 case and provides that once an estate is fully administered the court may, on its own motion or upon the motion of a party in interest, enter a final decree closing the case. In determining whether to permit the closing of the case, courts consider the following factors:

- Whether the confirmation order is final;
- Whether the plan payments have been distributed;

- Whether the debtor or successor to the debtor under the plan has assumed the business or the management of the property to be dealt with under the plan;
- Whether plan payments have begun; and
- Whether all motions, adversary proceedings and contested matters have been fully resolved.

In order to seek such relief, the individual chapter 11 debtor should make clear in his disclosure statement and plan of reorganization that he intends to seek an early closing of the case so that the appropriate notice to creditors and parties in interest has been provided. In addition, the debtor should be prepared to explain to the bankruptcy court why such relief is appropriate under the circumstances of his case. Counsel for individual chapter 11 debtors should not assume that this relief will be granted in every instance and should be prepared to explain why the relief should be granted based upon the facts of the individual cases. If, for instance, payment of U.S. Trustee quarterly fees would not substantially harm creditors, why should such relief be granted? On the other hand, if the plan proposes modification of long term loans, then early closing may make sense. If the plan proposes a refinance to pay off unsecured creditors, and the refinance is impossible while the case remains open, early closing may be appropriate.

Checklist of Important Items/Information in Individual Chapter 11 Cases

1. Debtor Must Take Credit Counseling Course

2. Application to Employ Needs to be Filed, Notice Provided, and Application Needs to be Approved

3. Debtor Must Pay all U.S. Trustee Fees

4. Debtor Must Open Debtor-in-Possession Accounts and Close Old Accounts

5. Debtor Must Maintain Insurance on Assets

6. Debtor Must File Monthly Operating Reports Until Confirmation

7. Debtor Must Make all Domestic Support Obligations that Come Due Post-Petition

8. Debtor's Post-Petition Earnings and After-Acquired Property is Considered Property of the Estate

9. A Committee May be Appointed

10. Unless Debtor is Considered a Small Business Debtor, Debtor Must File a Disclosure Statement

11. Priority Debt Must Be Paid in Full

12. Priority Tax Debt Must be Paid within 5 Years, Unless Agreed to Different Treatment

13. Debtor May Strip Down an Undersecured Claim

14. Absolute Priority Rule May Apply

15. Debtor Must Meet the Best Interests of the Creditors Test

16. Debtor Must Make Best Efforts

17. There is No Minimum or Maximum Term for a Plan, But Debtor Must Pledge at Least an Amount Equal to 5 Years' Worth of Disposable Income

18. Non-Dischargeable Debt is Stayed Until Either Discharge Granted, Case Closed or Relief from Automatic Stay Granted

19. Plan May Be Modified, Even After Substantial Consummation

20. Debtor May Seek Early Discharge and/or Closing of Case