

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

STATEMENT OF INFORMATION PURSUANT TO 11 U.S.C. § 524(d)

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Your Bankruptcy Discharge: What it means to you.

As a debtor, the Bankruptcy code entitles you to a discharge of certain debts. The following written material attempts to explain the nature of a discharge, and the benefits and rights you receive from the discharge. **READ THE ENCLOSED PAGES CAREFULLY.** They will help you to understand what debt you no longer must pay, as well as how you may choose to pay some of your bills.

It might be necessary to discuss this information with your attorney, as it relates to your particular case. If you still have questions, you may call the Bankruptcy Court at 528-4477 ext. 14. Someone there will try to explain or clarify these comments, or if necessary schedule an appointment for you to speak with the Judge. However, no one connected with the Court, including the Judge, is authorized to furnish legal advice with respect to your case - - as to this you must consult an attorney.

I. THE DISCHARGE

A. DISCHARGE

This document is NOT a discharge. The Bankruptcy Clerk's office will mail your discharge papers, usually within 10 days of the date of entry of the discharge by the Judge.

B. WHAT IS A DISCHARGE AND WHAT DEBTS ARE DISCHARGED

The discharge is a Court Order releasing you from liability for all dischargeable debts listed on your bankruptcy schedules. The following debts are NOT GENERALLY discharged: (1) alimony and support payments; (2) most taxes; (3) certain educational loans; (4) court-ordered fines, penalties, and forfeitures; (5) personal injury debts caused by driving while intoxicated or taking drugs; and (6) any other debt which this Court, after a hearing, determines to be nondischargeable. **ALSO, DEBTS WHICH YOU FAILED TO LIST USUALLY ARE NOT DISCHARGEABLE,** and neither are debts that you have incurred after the filing of your bankruptcy petition. To determine whether a specific debt is discharged, you should consult your attorney.

C. EFFECT OF A DISCHARGE

CREDITORS CANNOT PRESSURE, HARASS, OR SUE YOU TO COLLECT ANY DISCHARGED DEBT. The Bankruptcy Code specifically prohibits this, and any such conduct by creditors should be reported to your attorney.

If a creditor sends you a bill for any debt which has been discharged, you may ignore the bill. It would probably be better, however, to return the bill with a note reminding the creditor that the

debt has been discharged in bankruptcy. Furthermore, no governmental agency or private employer may discriminate against you because of your having filed bankruptcy, and no license may be denied or canceled because of your refusal to pay a discharged debt.

D. VOLUNTARY PAYMENTS

Some debtors may wish to make voluntary payments to creditors on debts that have been legally discharged. Such payments are permitted, but you should realize that they are VOLUNTARY, and there is no obligation to make or to continue making such payments.

II. REAFFIRMATION OF DISCHARGED DEBTS

A. WHAT IS REAFFIRMATION

Reaffirmation is the making of a new promise to a creditor to pay a debt which you no longer owe because it has been discharged. A reaffirmation is, in fact, giving away some of the protection afforded by your discharge, and should be strictly voluntary on your part. While the bankruptcy Code does not prohibit reaffirmations, you should never be forced into reaffirming or paying any discharged debts.

Some debtors may wish to reaffirm debts in order to retain certain secured property which they may need or want to keep, such as business equipment or an automobile on which a creditor has a lien. **OBVIOUSLY, YOU SHOULD NOT REAFFIRM A DEBT IF YOU ARE UNABLE TO MAKE THE AGREED-UPON PAYMENTS.** A reaffirmation may not be in your best interest in any of the following circumstances: (1) reaffirming a secured debt on property you do not need; (2) when you feel you may not be able to make future payments; (3) when the amount of the debt being reaffirmed is greater than the value of the secured item you wish to keep; **FOR EXAMPLE**, don't reaffirm a car loan for \$3,000 if the vehicle is worth, say, \$1,200.

B. REAFFIRMATION AGREEMENT MUST BE MADE BEFORE THE DISCHARGE IS ENTERED

Any agreement to reaffirm a dischargeable debt must be made BEFORE the discharge is entered. Therefore, after you receive your discharge, you will not be able to enter into a binding reaffirmation agreement, so if you are in the process of reaffirming a debt, notify the Clerk of the Bankruptcy Court IN WRITING to hold the entry of your discharge until the reaffirmation paperwork is completed. The Clerk will only hold your discharge for fifteen (15) days unless you file a written request for an extension.

C. REAFFIRMATION OF CONSUMER DEBTS

If you wish to reaffirm a "CONSUMER DEBT" - - a debt for personal, family, or household purposes, and you are NOT represented by an attorney during negotiations to reaffirm the debt, the Court must approve the reaffirmation agreement, after a hearing. As a general rule, the Court will not approve the reaffirmation of a consumer debt unless the Court determines that the reaffirmation will not impose undue hardship on you or your dependents, and that it is in your best interest.

If you are represented by an attorney during negotiations to reaffirm a consumer debt, the reaffirmation agreement must contain a clear and conspicuous statement advising you, the Debtor,

that you may rescind the agreement at any time prior to discharge or within sixty (60) days after the agreement is filed with the Court, whichever occurs later, by giving notice of rescission to the holder of the claim. Further, your attorney must file a declaration or affidavit that the agreement represents a fully informed and voluntary agreement by you, the Debtor; that it does not impose an undue hardship on you or your dependents; and that the attorney has fully advised you of the legal effect and consequences of such reaffirmation agreement and any subsequent default thereunder. Agreements filed in this form DO NOT REQUIRE COURT APPROVAL, nor do agreements to reaffirm a non-consumer debt.

D. YOU HAVE 60 DAYS TO REVOKE ANY REAFFIRMATION

If you have already entered into a reaffirmation agreement, you have UNTIL THE DISCHARGE IS ENTERED OR 60 DAYS FROM THE FILING OF THE AGREEMENT WITH THE COURT, whichever is later, to reconsider and revoke the agreement. See 11 U.S.C. § 524 (c)(2)(A). If you decide to revoke the reaffirmation, send a letter to the creditor with whom you have entered into the agreement, stating that you have changed your mind and are revoking the agreement. Send the original letter to the creditor (PREFERABLY BY CERTIFIED MAIL, RETURN RECEIPT), and just to be safe, also send copies to your attorney and to the Clerk of the Bankruptcy Court, requesting that the letter be placed in your file. REMEMBER, YOU HAVE UNTIL THE DATE OF DISCHARGE OR 60 DAYS FROM THE FILING OF THE AGREEMENT WITH THE COURT, whichever is later, to take this action.

E. NON-PURCHASE MONEY SECURITY INTERESTS IN CONSUMER GOODS

If any of your secured debts are based upon loans which you DID NOT OBTAIN to purchase the property that is now secured (that is, in return for lending you money, the lender took as collateral for the loan a security interest in some property that you already owned, such as household furniture), you may be able to avoid that security interest up to the dollar amount of your exemption in the secured property. Alert your attorney to such circumstances immediately and refer him/her to Section 522(f) of the Bankruptcy Code. To avoid this lien, you must file a complaint with the Court before your case is closed. **NOTE - - YOUR FILE WILL BE CLOSED WITHIN A FEW DAYS OF THE DATE OF DISCHARGE.** If the lien is removed, the creditor may not thereafter repossess or threaten to repossess the property in lieu of payment of the debts - - i.e., the debt will be discharged and you will still be able to keep the property in question. NOTE: This section does not apply to motor vehicles, but it does cover all of your personal and household property.

Arthur N. Votolato
U.S. Bankruptcy Judge