



### **Consult With A Bankruptcy Attorney Before Making Key Financial Decisions**

A lot of people considering bankruptcy wonder what type of “planning” they can do to legally protect what assets they have from the requirement to surrender these items to the Bankruptcy Trustee. While the law protects a certain amount of your property from the court, financial decisions that may not be problematic under Florida civil law could affect your bankruptcy proceeding.

Say, for example, you are located in Cape Coral and struggling to keep your house, and that you have utility assessments against it. The City of Cape Coral gives residents the option to pay their assessments in full, or to finance them over a period of time at a much higher price. If you are on a payment plan, your monthly assessments are taken from your “escrow” account, like taxes and insurance. Assume that you elected some time ago to pay off your assessments under this installment plan.

As times got tough, you decided to sell off some unnecessary assets to try and restructure your affairs. You use the money from the sale of some lawn equipment to pay down your utility assessment. This reduces your monthly payment amount, allowing you to better manage your payments and keep your home. This is a perfectly logical and financially sound way to try and keep your home.

An aggressive Bankruptcy Trustee, however, might try and assert that you intentionally committed fraud against your other creditors by using this money to pay down this particular debt. This might not make any common sense, but remains a risk to your case nevertheless. It is important to consult with a bankruptcy attorney before paying any one creditor over another. This way, you can consider alternatives that might permit you to keep your house.

Placing money into a retirement account, unless automatically done through your employer and you have been making such deposits as a regular matter for some time;

The following are some tips for how to avoid trouble even before your consult with your bankruptcy attorney:

- (1) Avoid paying down your mortgage, rent, car payment or other expense – even if clearly necessary – other than the amount due at the time.
- (2) Avoid transferring any asset, or repaying any loan, to a friend or family member. If you must sell property to a family member, it must be for fair market value and fully documented in the same manner as if you sold it to a third party.

Take a common sense approach to using your money to pay only “necessary” expenses, including basic transportation. Your bankruptcy attorney will advise you more specifically of things to do or not do once you are ready for sound legal advice. - Ari Good, Esq.