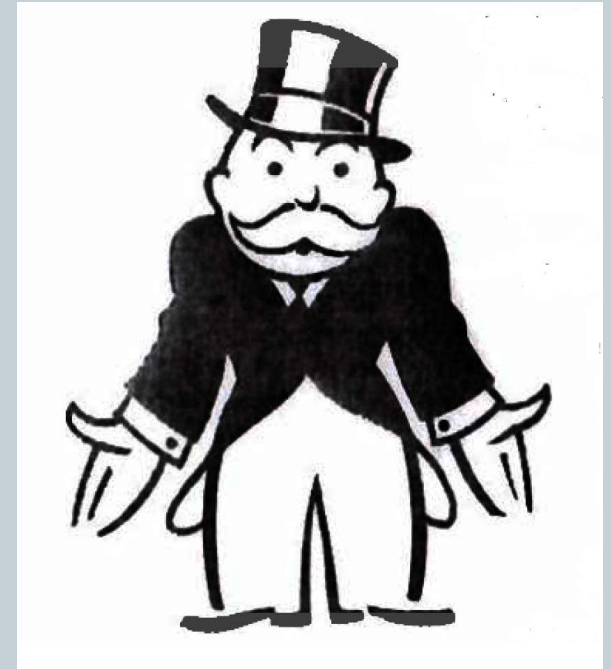


Bankruptcy Basics



- *Krystal M. Ahart, Kahn & Ahart, PLLC*
- *Curtis Ching, Assistant United States Trustee*
- *The Honorable Robert J. Faris,
Bankruptcy Judge*
- *The Honorable Daniel P. Collins,
Bankruptcy Judge*



Creditor Collection Efforts



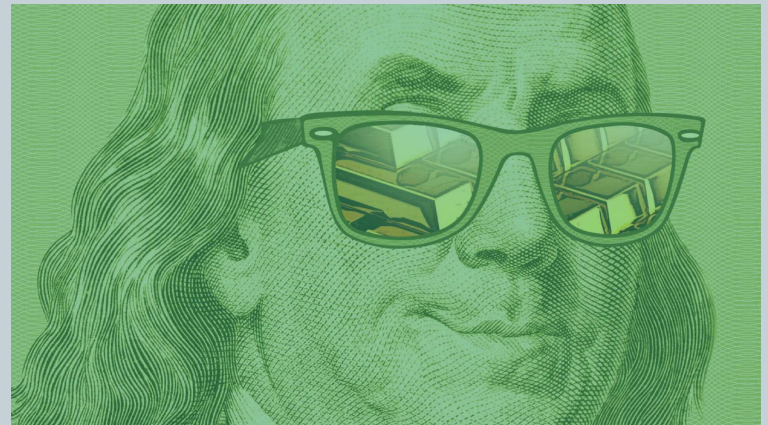
- Foreclose on a house
- Lawsuit, judgment debtor exams
- Judgment lien on home
- Self help repossession
- Wage garnishment
- Account garnishment
- Charging order



When is a client a candidate?



- Can't pay all debts as they come due
- Inability to pay unsecured debt in their lifetime
- Facing litigation can't afford or a sizeable judgment
- Still have assets to preserve
- Avoid Judgment Liens
- Significant tax debt





I DECLARE

BANKRUPTCY!!!

Types of Bankruptcy



- **Chapter 7**
 - Liquidation
 - Individuals and businesses
 - Benefits (quick and cheaper)
- **Chapter 13**
 - Only individuals w/ “regular income”
 - Reorganization
 - Benefits, there is a trustee, save house
- **Chapter 11**
 - Liquidation, reorganization, sale
 - Individuals and businesses
 - Benefits, no operating trustee, cramdown, taxes



Upcoming CLE Events

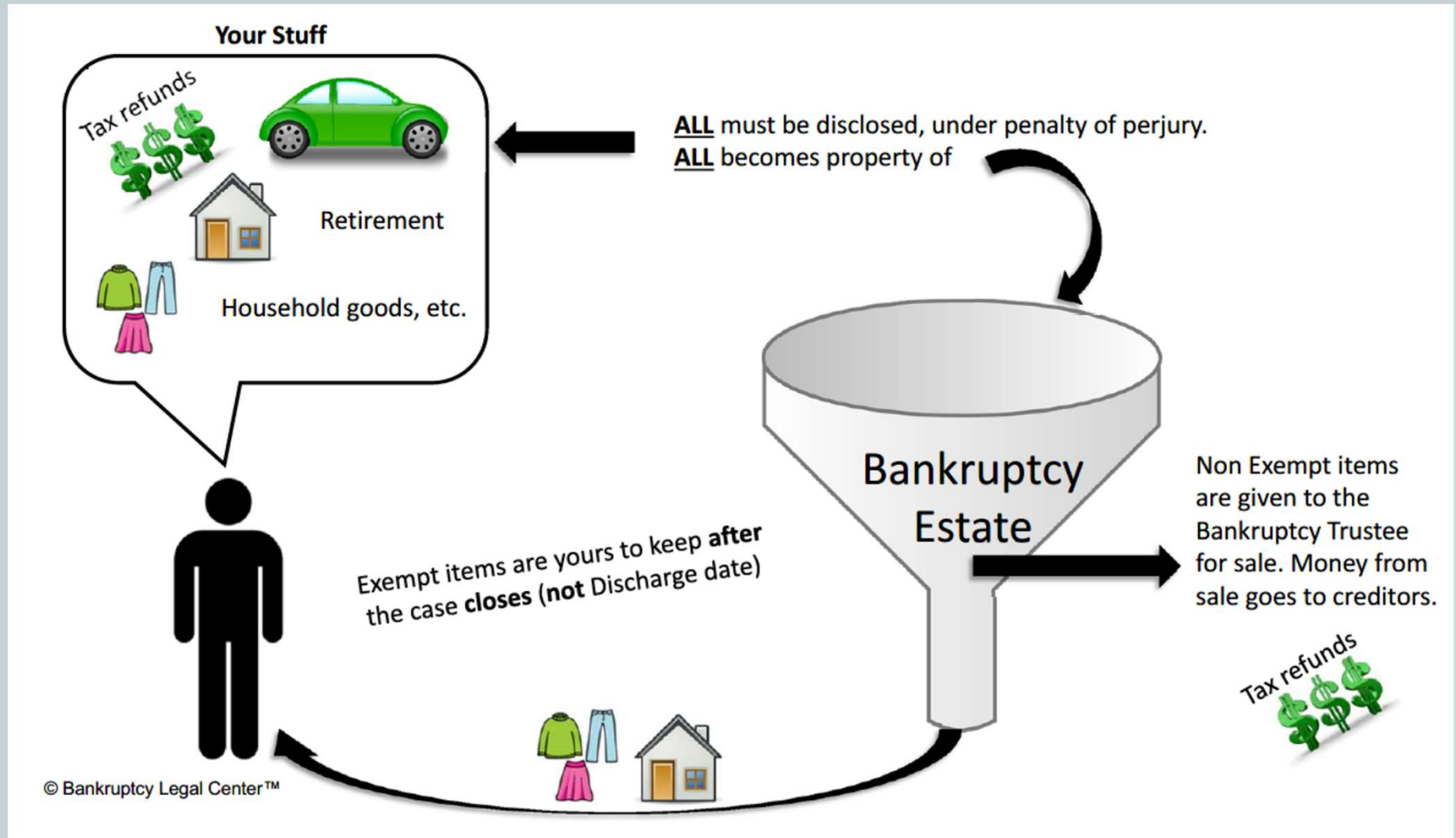


- **Bankruptcy Appeals**
 - February 13, 2024, at 9:00 AM (Guam)

- **Chapter 11**
 - February 20, 2024, at 9:00 AM (Guam)



Bankruptcy...Simplified?



Exemptions



- What assets can be protected?
 - General exemptions: 7 GCA section 23111
 - Homestead exemption: 21 GCA section 43102 et seq.



Role of the United States Trustee



- Watchdog Over the Bankruptcy Process
- Appoints and Oversees Private Trustees to Cases
- Civil Litigation
 - Debtor Abuse/Creditor Abuse
 - Objections to Discharge
 - Attorney Misconduct

Ethics!



- Who is your client (business or individual)?
- Should the business even file?
- Who will pay your fees?
- When will you be paid?
- Scope of engagement
 - Carve out Adversary Proceedings?
- Fee bifurcation (not ideal).





Why a Bankruptcy Practice?

Chapter 7 Planning Issues



- Means Test (and non-consumer exclusion)
- Exempt versus non-exempt assets
- Business owners
- Tax issues
- Recent Transactions/Transfers
- Chapter 7 Trustee strong arm powers
- Non-dischargeability issues 11 U.S.C. § 523

Chapter 13 Planning Issues



- Debt limit § 109(e) \$2.75MM
- Save a house or a car
- Absolute right to dismiss
- Super Discharge:
 - Non-Support Divorce claims
 - Willful & Malicious
- Transfer issues
- Tame aggressive litigant



Protecting Your Fees



- Risks
 - Being paid:
 - ✦ 90 days before a bankruptcy
 - ✦ by third-parties
 - ✦ on credit cards
- Advance Deposits
- Flat fee, earned on receipt
- Difference in Ch 7 vs. Ch 11/13
- Staying on as counsel in the bankruptcy



More Ethics!



- Debt Relief Agent requirements
- Disclosure of Compensation Rule 2016(b)
- Pre-petition Document Review is critical
- Your procrastination is not my emergency!
- § 341 Meeting of Creditors



Want More Info?



- For further reading, see:
<https://www.uscourts.gov/services-forms/bankruptcy>
- <https://www.justice.gov/ust/consumer-information>
- <https://www.uscourts.gov/forms/bankruptcy-forms>
- <https://www.justice.gov/ust/bifurcated-fee>

Any questions?

