

FREQUENTLY ASKED QUESTIONS BY **CREDITORS**

Below is 6 of the most common questions posed by creditors to the Trustee. The answers below represent the most common response by the Trustee.

1. WHAT ABOUT MY ATTORNEY FEES?

The Eastern District of California has a general order (currently General Order #03-03) that describes how attorney fees are paid should you choose to follow the expedited procedures detailed in that order. If you do not choose to follow the expedited procedures, you should consult the Bankruptcy Code. (Expect a need to file a motion with notice of hearing served on all parties.)

2. WHAT ABOUT THE CHAPTER 13 PLAN?

The Eastern District of California has a general order (currently General Order #03-03) that requires a form plan to be used, although you can alter the terms of the plan in the additional provision section of the plan. You will draw an objection to confirmation from the Trustee if the current form plan is not used. The form plan can be obtained on the Court's website at www.caeb.uscourts.gov.

3. WHAT ABOUT A LIQUIDATION PLAN?

A plan may propose to rely heavily on the sale of property, but the debtor's monthly payments must be sufficient to pay the ongoing interest due on secured claims. Failure to do so will result in an objection from the Trustee.

4. WHAT DEBTS CAN BE PAID DIRECTLY BY THE DEBTOR?

Ongoing mortgage payments and long-term secured debts are normally the only debts (other than normal living expenses) that the debtor pays directly. This is determined by what plan is used and what is called for in a confirmed plan.

5. WHAT HAPPENS IF A CASE IS DISMISSED?

A dismissal means that the debtor did not successfully complete their plan and the case and the protection of bankruptcy is terminated. All creditor stays will be lifted and creditor may continue with recovery procedures for the debts owed.

6. CAN I COLLECT MY DEBT FROM THE DEBTOR OR A CO-DEBTOR WHILE THEY ARE IN BANKRUPTCY?

While in a Chapter 13 bankruptcy the debtor and any co-debtors are protected by an automatic stay - a Court order that creditors can not try to collect from them or from estate property for pre-petition debts. This is a very broad Court order, and if you violate this order, you may be liable for damages. You should consult with an attorney before considering or attempting any collection action - you may not be able to collect from the debtor or co-debtor while the debtor is in a Chapter 13 bankruptcy without the permission of the United States Bankruptcy Court.