

STATE BAR OF TEXAS
BANKRUPTCY LAW SECTION
NEWSLETTER

Fall 2005

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MONEY WISE: Your Chance to Teach
High School Students about Consumer Credit
by Charles A. Beckham Jr.

As bankruptcy lawyers, we are presented with the financial problems of our clients every day. Often we wish we could have told them how they could have avoided their financial problems months or years before the day they walked through the door of our office. What if we could? What if you could go back in time to your clients' high school and teach your clients about consumer credit issues? Well, you can't do that, but the Bankruptcy Law Section has created materials you can use to reach out to high school students today in your community today to help them avoid financial problems in the future.

The Bankruptcy Law Section, in partnership with the Consumer Information Foundation, Inc., has created an opportunity for Texas high school students to learn the benefits of keeping a budget, setting financial goals, and preparing for the future. The program, called *Money Wise*, is a comprehensive financial education program targeted to high school students. The program is to be presented by lawyers in local high schools. *Money Wise* includes a flashpoint presentation with a corresponding teaching outline. It encourages students to explore real-life scenarios involving budgets, college expenses, and planning for the future. The program is approximately one hour in length.

This month, I am calling on the presidents and chairs of local bankruptcy bars around Texas to form High School Consumer Education Committees across Texas to present *Money Wise* in their local communities. The program materials are prepared and ready to send to you. All we need is for you to volunteer to help in your community.

Please let me or Layla Sisen, the *Money Wise* Program Coordinator, know if you would like to participate in *Money Wise* in your community by sending an e-mail to us at MoneyWiseNow@yahoo.com. Layla and I will make sure you are involved in this worthwhile project.

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CALL FOR ARTICLES AND CALENDAR EVENTS

The **STATE BAR OF TEXAS BANKRUPTCY LAW SECTION** is dedicated to providing Texas practitioners, judges, and academics with comprehensive, reliable, and practical coverage of the evolving field of bankruptcy law. We are currently reviewing articles for upcoming publications. We welcome your submissions for potential publication. In addition, please send us any information regarding upcoming bankruptcy-related meetings and/or CLE events for inclusion in the newsletter calendar, as well as any items for our "Troop Movements" section.

If you are interested in submitting an article to be considered for publication or to calendar an event, please either e-mail your submission to **kourtney.lyda@haynesboone.com** or mail it to the following address:

Kourtney P. Lyda
Haynes and Boone, L.L.P.
1221 McKinney, Suite 2100
Houston, Texas 77010
Telephone: (713) 547-2590
Facsimile: (713) 236-5687
Kourtney.Lyda@haynesboone.com

Please format your submission in Microsoft Word. Citations should conform to the most recent version of the Bluebook, the Texas Rules of Form, and the Manual on Usage, Style & Editing.

Should you have any questions, please visit our website at **<http://txbankruptcylawsection.com>**. We look forward to reviewing your submissions for potential publication in the next **STATE BAR OF TEXAS BANKRUPTCY LAW SECTION NEWSLETTER**.



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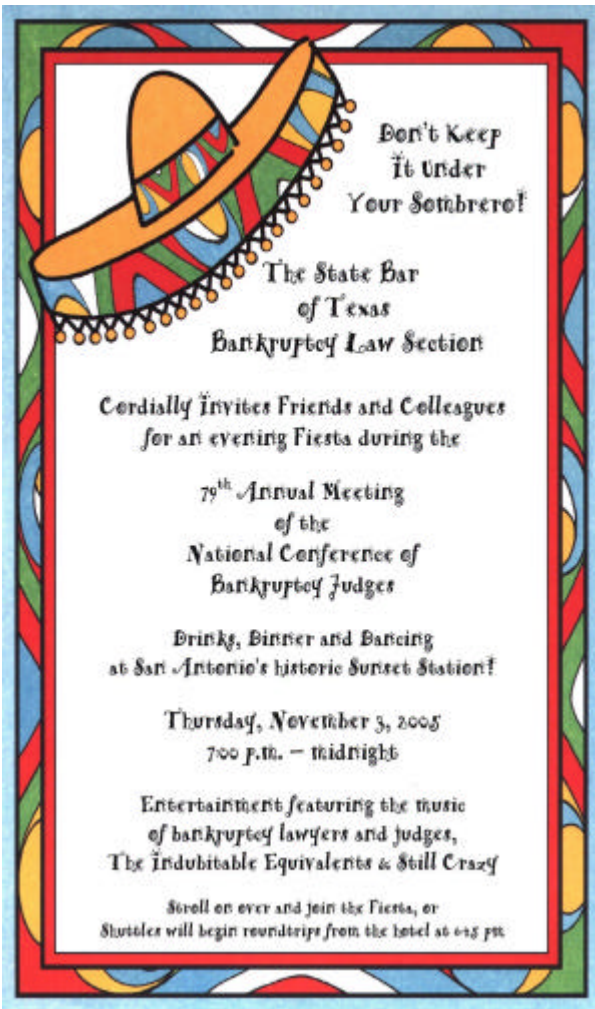
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NATIONAL CONFERENCE OF BANKRUPTCY JUDGES

The Bankruptcy Law Section of the State Bar of Texas welcomes the 79th Annual Meeting of the National Conference of Bankruptcy Judges to San Antonio on November 2 – 4, 2005. With the support of our friends and colleagues, we will host a Fiesta on November 3rd for all NCBJ registrants and their guests.

Conference registrants are invited to attend free of charge. Others may attend at the cost of \$50 per person. See the invitation below for more information.



PROJECT FRESH START- Hurricane Relief Effort

As a result of the devastation caused by Hurricane Katrina, the Bankruptcy Law Section of the State Bar of Texas has asked Bob Albergotti, Byrnie Bass, and Henry Kaim to co-chair an effort to provide pro bono bankruptcy advice and counsel to Katrina disaster victims. This effort has been named *Project Fresh Start*.

We have all watched in horror and frustration the devastation that Katrina has caused to so many lives, and we have all wondered "what can I do to help?" Project Fresh Start allows bankruptcy lawyers the opportunity to advise individuals and small businesses that have suffered from the Katrina disaster and, if necessary, file bankruptcy cases for them, all on a pro bono basis. This is something that bankruptcy lawyers are uniquely able to donate. A list of volunteers is being put together in Houston, Dallas, San Antonio, Austin, and other areas where Katrina victims are congregated. Response from the bankruptcy bar has been very enthusiastic.

If you wish to be included in this volunteer effort just email your full contact information to one or all of the following:

henry.kaim@bracewellgiuliani.com

robert.albergotti@haynesboone.com

bbass@hardlaw.com

Time Periods for Assumption/Rejection of Leases Changed by New Act

by Judge Hale

U.S. Bankruptcy Judge, Northern District of Texas

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Act") has altered considerably a bankruptcy court's discretion regarding the extension of the time periods for determining whether to assume or reject a non residential real property lease.

Under the present statute, Bankruptcy Code Section 365 (d) (4), the trustee has an initial 60-day period to assume or reject an unexpired lease of nonresidential real property. However, that period may be, and often is, extended by courts for cause. For many years in the Fifth Circuit the law has been that the period for assuming or rejecting may be extended "for cause" multiple times, so long as the motion to extend is brought prior to the expiration of the period as previously extended. *See Matter of American Healthcare Management, Inc.*, 900 F.2d 827 (5th Cir. 1990). Because of this construction of the lease provisions, it was not uncommon to see many extensions of the assumption deadline in large cases.

The new legislation changes the initial period for assumption or rejection from 60 days to 120 days. The statute also allows an extension of that period for cause; however, the court is limited to a single 90-day extension of the assumption or rejection period. Thus, the Act provides a longer initial period for the trustee to determine to assume or reject but eliminates the court's discretion to grant multiple extensions and limits the time frame for extension to 90 days. Future extensions require the written consent of the lessor, perhaps a difficult prerequisite for a debtor/trustee to obtain.

The changes to the assumption or rejection periods go into effect on October 17, 2005, the effective date of most of the Act. The changes apply to cases filed on or after that date.

STATE BAR BANKRUPTCY SECTION WEB SITE

As an added member benefit, new items have been posted on our much under-utilized website.

The website includes upcoming CLE events so if you know of any event and would like it to be posted, please send the information to **howleyt@haynesboone.com**

The posted materials also include the always popular summary of significant recent bankruptcy cases prepared by Judge Hale and Gerrit Pronske.

In addition, there are some great photos from the 2005 Bankruptcy Bench/Bar Conference in San Antonio.

Our website can be viewed at www.txbankruptcylawsection.com. Our website is sponsored and maintained by the State Bar.

Pro Bono Committee of the State Bar of Texas Bankruptcy Section

Pro Bono Service Opportunity

Texas Rio Grande Legal Aid seeks private bankruptcy attorneys to take referrals for Chapter 7 and 13 cases. Chapter 13 referrals pay the filing fee upfront and roll fees into the plan. Chapter 7 referrals are typically elderly clients or individuals with extraordinary medical bills, and would be on a pro bono or reduced-fee basis. Our service area covers 68 counties, many of which are in underserved rural areas. To sign up before October 17, call Emily Rickers at (956) 393-6200.

2005 BANKRUPTCY SECTION CALENDAR OF EVENTS

OCTOBER

October 6, 2005

Event Name: International Women's
Insolvency and Restructuring
Confederation Organizational Meeting

Location: Quattro, Four Seasons Hotel
Houston, Texas

Time: 5:30 pm

For more info, see www.IWIRC.com

October 14, 2005

Event Name: Revisions to the
Bankruptcy Code and Related Statutes:
Bankruptcy Abuse and Consumer
Protection Act of 2005

Location: Solomon Ortiz Center,
Corpus Christi

CLE: 7.25 hours credit, including 1.0
hours of ethics

October 20 - 23, 2005

Event: The State Bar of Texas
Bankruptcy Law Section's
International Bankruptcy Law Seminar

Location: Omni Cancun Resort,
Cancun, Mexico

Price: \$875.00 per person, double
occupancy

NOVEMBER

November 1-2, 2005

- **Event:** The International Women's
Insolvency and Restructuring
Confederation Fall 2005 Conference

Location: San Antonio, Texas

For more info, see www.IWIRC.com

November 2-5, 2005

- **Event:** National Conference of
Bankruptcy Judges

Location: San Antonio, Texas

**For more information, see
www.ncbj.org**

November 3-4, 2005

- **Event Name:** Advanced Consumer
Law

Location: Hotel Derek , Houston, Texas

CLE: 12.5 hours credit, including 2.75
hours of ethics

For more info, see texasbarCLE.com

November 10-11, 2005

- **Event Name:** University of Texas
Bankruptcy Seminar

Location: Four Seasons, Austin, Texas

For more info, contact University of
Texas, CLE Dept., Phone: (512) 475-
6700 • Fax: (512) 475-6876

A Discussion of Advantages of Mortgage Payments Paid Through Chapter 13 Plans

by Robert B. Wilson, Chapter 13 Trustee

EDITOR'S NOTE: The following is the final installment of a point-counterpoint discussion of the relative merits of making mortgage payments through the trustee in a Chapter 13 case. In our last issue, Debbie Langehennig, Chapter 13 trustee, made the case that the increasingly common practice of making mortgage payments through the trustee fails to address the underlying problems and may actually be counterproductive to the financial education of the debtor. Here, Robert Wilson, another of our Chapter 13 trustees, argues the other side of the issue.

It is the Chapter 13 Trustee's duty to "...advise, other than on legal matters, and assist the debtor in performance under the plan..."(11 U.S.C. §1302(b)(4)), while ensuring the administering of the bankruptcy plan, its feasibility, and the debtors' capabilities of repaying creditors as scheduled (11 U.S.C. §1302(2)(A)(B)(C)). The changes in the Chapter 13 practice under the Bankruptcy Abuse Prevention and Consumer Protection Act 2005 will be multiple and convoluted. But the Act may speed nationwide an idea whose time has come- to have the mortgage payments scheduled, paid, and disbursed through the plan and the Standing Trustee's office.

While the process of having the Standing Trustee act as the disbursing agent has not been adopted by a majority of Trusteeship in the nation, it does have its supporters.

Bankruptcy Judge Michael McManus remarked in an interview with Andrew Jacobson that "in [his] experience, any time you depend on debtors to make

payments directly to creditors, you will greatly increase the amount of court time needed to settle payment disputes."¹ Often times, debtors find themselves in a position where a chapter 13 petition is imperative because they have been irresponsible in making payments to creditors, and payment of the post-petition mortgage installments is another way to aid the debtor in gaining relief under chapter 13.

A common reason that debtors file a chapter 13 petition is to save their home from foreclosure, or their car from repossession.² The "reason behind the reason" is often catastrophic events such as medical problems, divorce, and/or loss of income. Just as common is the debtors' inability to properly manage their finances. The goal of saving the home may be frustrated when the chapter 13 debtor is required to pay the monthly mortgage installment directly to the mortgage lender and the pre-petition arrears through the plan. Unfortunately, circumstances may arise post-petition wherein the debtor fails to make the mortgage installment, and by the time the problem is detected and a motion to lift stay has been filed, one missed payment has turned into many, and the home cannot be saved.³ Under these circumstances, the debtor may have lost any motivation to continue the plan and may choose to convert to a chapter 7, leaving creditors with little or no repayment.⁴ Missed payments of \$1,500 often multiply to \$3,000 after the mortgage lender has hired an attorney to file a motion to lift stay and additional costs and penalties have accrued.

The Bankruptcy Code provides that any default incurred pre-

petition by the debtor may be cured through a chapter 13 plan, but requires that no alteration or modification to the home mortgage be made.⁵ This requirement requires diligence for Standing Trustee's making post-petition mortgage installments through a chapter 13 plan because it prevents any change to installment due dates or payment procedures. However, the 5th Circuit has held that requiring a chapter 13 Trustee to make post-petition mortgage payments is probably not an impermissible modification of a home mortgage under the statute.⁶

The problem typically arises during the first months after a petition has been filed. If the mortgage installments are not made directly to the mortgage lender by the debtor, it is likely that absent some turn of luck, the first payment due after the petition will be missed, simply because of the timing of disbursement within Trustee office. The best solution to such a problem is for the mortgage lender, the debtor and the Trustee to agree that the first post-petition mortgage payment should be added to the arrearage claim. The mortgagee may be entitled to a late charge.⁷ If the mortgagee refuses such an arrangement, the Trustee would be placed in a position to come up with another creative solution.

EFFECT ON MORTGAGEES

The process of mortgage payment through a chapter 13 plan harbors disadvantages for mortgage lenders. One such disadvantage is the difficulty of the Trustee to make timely payments under the contract, especially during the first month as previously discussed. If the mortgage lender is not allowed

to assess late charges for this delay as it is entitled by the mortgage contract, it can be argued that the plan will be in violation of Section 1322(b)(2), and the mortgage lender should be entitled to relief from stay. Accordingly, the mortgage lender must be prepared to tolerate late payments should it choose to acquiesce to a plan that allows Trustee payment of the home mortgage. Secondly, the mortgage lender may face difficulty in allocating the consolidated payment received from the Trustee to the various "categories" of payment to which the lender is entitled, such as regular mortgage payments, arrearages, and on occasion, post-petition default payments.⁸

These disadvantages, however, are counter-balanced by a number of advantages. If the debtor fails to pay the Trustee any or all of the amount needed to satisfy the chapter 13 plan, the Trustee will immediately know of any default to the mortgage lender and if the problem is not promptly resolved, the standard chapter 13 plan provisions allow the Trustee to file a motion to dismiss the case. This means that the creditor can obtain relief without the expense of hiring an attorney to file a motion to lift the automatic stay. It also gives the mortgage lender an advantage in that it will have access to the Trustee's records electronically, which will give it access to such information as to when, and in what amounts, payments have been made. Through transfers, assignments, buy-outs, etc., many of the mortgage companies' records are and remain in a marvelous state of disarray. Mortgage companies occasionally fail to credit all payments or keep records that can be easily understood. The Standing Trustees' records are often much more accurate and are verified by audit, albeit on a random basis.

CHALLENGE TO DEBTORS

Debtors will face a few additional challenges when paying the post-petition mortgage installments through the chapter 13 plan. One such challenge is the increased amount of the plan payment. The debtor's monthly plan payment must be increased in order to pay the mortgage payment through the plan. However, this would minimize additional legal fees from post-petition motions and make more available to the lower priority and unsecured creditors by way of the administration Trustee fee. Once the debtor fully understands the amount of income needed to pay the secured creditors including the house payment, he or she may be forced to make a tough decision about whether to surrender collateral other than the home, or even sell the home. Problems may also arise for the debtor if unforeseen expenses arise during the plan. Often in those circumstances, a debtor who is paying the mortgage directly to the mortgage lender would reallocate the mortgage payment to cover those expenses. In the Northern District of Texas, debtors are afforded the opportunity to pay the missed plan payment by way of an Interlocutory Order in which the debtor, debtor's attorney, and the Trustee enter into an agreement that is submitted to the court for review and approval, thereby avoiding this problem. (See Northern District of Texas General Order 98-4.)

Some argue that the true goal of bankruptcy, putting the debtor into a position to take control of his own finances with the tools needed to manage them successfully, is deferred and even hampered by the Trustee taking over the responsibility of making the mortgage payments.⁹ It may just as easily be argued that taking the responsibility of making mortgage payments from the debtors allows him or her the opportunity to get

all of their financial affairs in order. One study indicates:

One plausible benefit of moving the mortgage payments through the trustee operation is to increase the likelihood that the debtor will successfully complete the plan. The risks of default should be reduced, assuming the debtor remains regularly employed for the plan's duration.¹⁰

In a later article, Gordon Bermant concluded:

During the past four years, the numbers of trustees making post-petition mortgage payments inside the plan ("conduit payments"), and the amounts being paid, have increased substantially (these payments were not separately reported prior to FY 2000). There are good reasons to believe that this practice works to the benefit of creditors, debtors and trustees.¹¹

While there are some concrete disadvantages to debtors paying the mortgage through a chapter 13 plan, there are also very concrete advantages to such a plan. The debtor avoids many of the typical problems with the mortgage lender in a chapter 13 case (*e.g.*, payment history disputes, delay of contact with mortgage lenders and or their attorneys, additional late fees, and mortgage lender attorney fees). If the debtor's chapter 13 plan allows for Trustee-directed mortgage payments, the information about when and how much of a payment has been made will be accessible by the creditors through electronic means. The debtor is also afforded with repayment opportunities in one single plan payment and if the payment is made by wage order,

there is very little work for the debtor to do. An additional advantage to debtors when the mortgage payments are processed through the plan is that, at the time of discharge, an order can be entered in the plan to deem the mortgage current as of the date of discharge and, therefore, no additional costs, fees, or charges prior to that date may be levied against the debtor. Anecdotal evidence indicates this process has been utilized successfully by Standing Trustees in various parts of the country.

One criticism of routing mortgage payments through the Trustee is that it penalizes the debtor who is current on his payments. This penalty could be avoided by providing that in cases where there was no arrearage, payments to mortgage lenders could continue outside the plan directly by the debtor.

One disadvantage is common to both debtors and creditors. When a debtor is not able to make an entire payment to the Trustee, the distributions to the unsecured and lower priority creditors are affected. Because the partial payment is first applied to secured claims, they may receive little or nothing from the monthly disbursement from the Trustee.

TRUSTEE RESPONSIBILITIES

The Trustee will be required to undertake new responsibilities in processing mortgage payments. The Trustee must first determine if the mortgage payment that is scheduled to be processed through the plan is the correct and full amount of the monthly installments the debtor is or should be making.¹² Often, the debtor and the mortgage lender are not truly aware of the amount that should be paid each month, which may include an additional amount that

would cover arrearage from principal and interest.

The Trustee will be required to handle situations in which the debtor makes an incomplete payment. In such a situation, the Trustee should refrain from sending a partial payment to the mortgage lender who may be confused by such a payment. Instead, the Trustee should hold the partial payments for disbursements, and contact the debtor's attorney to have the debtor satisfy the scheduled payment amount. By doing this, the Trustee avoids a situation wherein the mortgage lender keeps the insufficient payment, but then files for relief from the automatic stay.

“Everything is a mess until it becomes a process. After that, it is simply a matter of getting the process accomplished.”
(Anonymous).

The Trustee will be responsible for maintaining information on the fluctuating increases or decreases of the applicable interest rate, either through notice from debtor or lender. Placing a staff member in charge of monitoring the rates for mortgages is required. The Trustee must then make certain the debtor is aware of fluctuating increases or decreases in interest rate and adjusts the monthly payments accordingly.

A recurring fear of Trustees considering the mortgage payment options is the problem of variable interest rates on decreases or increases in the escrow. A sophisticated computer system and competent staff can deal with this problem. U.S. Trustees attempt to ensure that Standing Trustees have both.

Other minor and problematic issues the Trustee would likely face if debtors scheduled their

mortgage payments through a chapter 13 plan include the monitoring and prioritization of multiple mortgages on a single property. The Trustee may be required to create new procedures for receiving and disbursing the debtor's payments so that all mortgage installments are made in accord with the requirements of the lender's contract. In all likelihood, a larger office may need to create a department specifically to monitor the mortgage portion of the chapter 13 plans. The department would be charged with responsibilities such as maintaining contact with mortgage lenders and debtors to ascertain whether or not payments are being received by the creditor in compliance with all requirements. The Trustee must be prepared to respond to and monitor motions to lift the automatic stay filed by the mortgage lender.

As challenging as the task in undertaking to schedule debtors' mortgage installments through the plan would be to Chapter 13 Trustees, it would allow an increase in the administrative fee of the Trustee, thus allowing more repayment to lower priority and unsecured creditors that often are discharged or do not recover anything from chapter 13 plans.

In general, many of the disadvantages of Trustee disbursements of monthly mortgage payments will apply to all chapter 13 plans (debtors, creditors, and the courts). It has been suggested that making a change to plan scheduled mortgage payments may increase the rate of plan completion by chapter 13 debtors.¹³ Lower priority and unsecured creditors that are accustomed to discharging debts in chapter 13 plans would now be afforded to proportionately recover some of the debt out of the plans. Plan completion is ultimate and formal proof of success and is a great advantage to debtors because

they gain an opportunity to re-establish and begin re-building credit that may have motivated them to enter into bankruptcy. It is also an advantage to all creditors, who may recover entirely or proportionately through plan completion. Risks of default on the mortgage are decreased through scheduled plan payments that the Trustee will disburse in monthly payments. Many courts are subject to dockets that have multiple relief of stay motions wherein the debtor and creditor exhaust communication efforts over payment transactions.¹⁴ By scheduling and making mortgage payments through the plan and the Trustee, the mortgage payment history during the term of the plan and payment transaction information that creditors and debtors often disagree over will be readily made available to all parties through electronic databases. If there is question about whether a mortgage payment has or has not been paid, the court will be able to rely on the Trustee to present thorough records detailing payment transaction information.

In this regard, the influences on the court's general chapter 13 docket should not be minimized. The chapter 13 docket for the Northern District of Texas for April 2004 listed thirty-seven items to be heard. Of these, twenty-four were motions to lift stay based on alleged post-petition arrearages. The average attorney fees and costs incurred by the creditor and debtor attorney was approximately \$1,000 a case. This cost is usually borne by the debtor either directly or through an increase in the plan base. If the Trustee is making disbursements, there would likely be two changes to the docket and the need for creditors and debtors to pay additional fees would decrease. The Standing Trustee would be required to defend any improvidently filed motions (payments misidentified or "lost"

by the mortgage lender) and would readily have the records to support the disbursement. Certainly, the reduction in workload for the courts would be even greater in cases where debtor payments are made through a wage order. Most Standing Trustees would probably agree that these wage orders are the most effective tool for ensuring chapter 13 successes.

Standing Trustees have been preparing for the changes mandated by Bankruptcy Abuse Prevention and Consumer Protection Act 2005. Trustees can be prepared to equip their staff and office to afford the processing of mortgage payments and disbursements through chapter 13 repayment plans. Some confidence can be asserted in the belief that the relief for debtors and mortgage lenders with the mortgage payments processed through plan payments will surpass the liabilities Trustees will likely incur.

It can be stated with some degree of certainty that the Bankruptcy Courts and U.S. Trustees must give full support to mortgage payments through the plan for it to be successful.

CONCLUSION

By removing the responsibility for post-petition mortgage installments from the debtors and placing it on the chapter 13 Trustee, the percentage of successful completion of chapter 13 plans will likely increase. The likelihood of default on the home mortgage would decrease and the amount available to distribute to all the creditors would be potentially increased. Even though the amount of work for the Trustee would also increase, the purpose of the bankruptcy law has been to serve debtors by aiding them in regaining financial control and financial security. It is the Trustee's responsibility to serve

this goal and to monitor the successful feasibility of repayment to creditors while ensuring debtors' rights for relief from creditors' abuse and or wrongfully losing assets.

¹Andrew Jacobson, *Reduced Debtor Protection: Proposed Bankruptcy Reform – an interview with Michael S. McManus of U.S. Bankruptcy Court*, 5 U.C. Davis Bus L.J. 11(2004).

²Michael H. Meyer and Kathleen A. McDonald, *House Payments – Inside or Outside the Plan presented at The National Association of Consumer Bankruptcy Attorneys 10th Annual Convention April 2002*.

³Hon. Michael S. McManus, *Payment of Post-Petition Mortgage Installments through the Chapter 13 Plan presented to the Central California Bankruptcy Association September 2000*.

⁴*Id.*

⁵11 U.S.C. § 1322 (b)(2) & (b)(5).

⁶*In re Lee*, 167 B.R. 417, 428 (Bankr. S.D. Miss. 1992) *affirmed* 22 F.3d 1094 (5th Cir, 1994).

⁷Meyer & McDonald, *supra* note 2, at 11.

⁸*See id.* at 7; *see also* *Payment of Post-Petition Mortgage Installments through the Chapter 13 Plan. Presented to National Association of Chapter 13 Trustees July 2002*, Puerto Rico.

⁹*See id.* at page 2.

¹⁰Bermant & Flynn, *Chapter 13: Who Pays the Mortgage?*, 20 American Bankruptcy Institute J. (June 2001).

¹¹Bermant, "Trends in Chapter 13 Disbursements." 24 American Bankruptcy Institute. J 20 (February 2005).

¹²McManus, *supra* note 3, at 5.

¹³Meyer & McDonald, *supra* note 2, at 6.

¹⁴*See id.*

Troop Movements

As of November 1, 2005, **Elizabeth Guffy** will move to the Austin office of **Dewey Ballantine LLP**. New contact information is not yet available but her email address will remain the same.

Mesirow Financial Consulting, LLC has moved its office to 2828 Routh Street, Suite 650, Dallas, Texas 75201. Telephone Number 214.954.1400.

Susan Mathews formerly with Porter & Hedges, LLP has joined the Houston office of **Adams and Reese, LLP**. Susan can be contacted at 1221 McKinney, Suite 4400, Houston, Texas 77010, telephone: 713.308.0180

Karl Burrer, former law clerk to the Honorable Marvin Isgur, has joined the Houston office of **Haynes and Boone LLP**.

John Cornwell has recently joined the Houston office of **Fulbright & Jaworski L.L.P.**

Autumn Smith has joined the Dallas office of **Haynes and Boone LLP**.

Linda Bezdicek, former law clerk to the Honorable Michael Lynn, has joined the Dallas office of **Locke Liddell & Sapp LLP**.

Richard Berberian, former law clerk of the Honorable Barbara J. Houser, has joined the Dallas office of **Vinson & Elkins**.

International Law Bankruptcy Seminar to be held in Greece

The State Bar of Texas Bankruptcy Law Section will hold its Third Annual International Bankruptcy Law Seminar in Greece on March 14-21, 2006. The Hon. Barbara J. Houser, Bankruptcy Judge for the Northern District of Texas, Dallas Division, the Hon. Richard Schmidt, Bankruptcy Judge for the Southern District of Texas, Corpus Christi Division, and the Hon. Leif Clark, Bankruptcy Judge for the Western District of Texas, San Antonio Division will be in attendance to serve as moderators and attendance monitors. We will be applying to the State Bar of Texas for 15 hours of CLE credit, including at least 3.0 hours of ethics.

A special thank you should be given to Judge Hale's wife. Claire Hale introduced us to Colonel Cochran, the U.S. Liaison to the Greek Air Force at the United States Embassy in Athens. Colonel Cochran has been wonderful in assisting with the organization of the program. And, of course, none of it would be possible without the hard work of Julianne Parker who has done so much to make all of the international seminars such huge successes.

Reservations must be made no later than October 15, 2005, or when the first 225 responses are received, whichever occurs first. There are already almost 100 people signed up to attend.

The cost to attend the program is \$2200, based on double occupancy.

If you have any questions or for more information, contact **Julianne Parker at 214.520.9901**. Nonrefundable deposits of \$1100 are due no later than October 15, 2005. Mail deposits and reservation forms to:

**Julianne M. Parker, Chairperson
International Seminar Committee
SBOT Bankruptcy Law Section
3303 Lee Parkway, Suite 305
Dallas, Texas 75219**

State Bar of Texas Annual Meeting Update Bankruptcy Law Section

The Bankruptcy Law Section held its second annual meeting on Friday, June 24, 2005 as part of the Annual Meeting of the State Bar of Texas. Charles A. Beckham, Jr. called the meeting to order and gave his report. The highlights of his report included that, after only one year, the Bankruptcy Law Section (the "Section") has almost 1000 members and has the most active internet list-serve of all of the State Bar sections. The Treasurer and each of the Vice-Presidents also gave reports. The following new council members were elected: William Greendyke of Houston, Judge Hale of Dallas, Chris Mott of El Paso,

and Judge Parker of Tyler. The meeting included three (3) hours of CLE for attendees. Mr. Beckham presented awards on behalf of the Section to Pat Kelley, Deborah Williamson, and Debbie Langehennig. Following the conclusion of the meeting, Bridge Associates LLP sponsored a lunch at which Kurt Eichenwald spoke on his book, *The Conspiracy of Fools, A True Story*, which chronicles the fall of Enron. Each attendee received an autographed copy of Mr. Eichenwald's book.

**THE STATE BAR
OF TEXAS
BANKRUPTCY LAW
SECTION
SINCERELY THANKS
THE MEDLEH GROUP
FOR THEIR
CONTINUED
SPONSORSHIP OF OUR
BANKRUPTCY SECTION
NEWSLETTER....**

for more information about
The MedLeh Group,
see www.themedlehgrou.com
or contact Craig Yager
at (832) 325-4415

Interim Bankruptcy Rules

As we all know, the enactment of BAPCPA calls for substantial new procedures. Fortunately, the Advisory Committee on Bankruptcy Rules of the Judicial Conference has prepared Interim Rules to implement the substantive and procedural changes required for application of the provisions of BAPCPA and recommended adoption by all local Bankruptcy Courts. These Interim Rules are designed to be applied until Official Bankruptcy Rules relating to BAPCPA provisions are approved through the normal approval process, which anticipated to be completed by December 31, 2006.

At present, the Southern and Eastern Districts have adopted the Interim Rules. The Northern District published them and subtitled them to a Local Rules Committee for comment by September 21, 2005. The Western District has not publicly acted. We anticipate both will adopt the Interim Rules.

The new Southern District Local Rules have been published for informational purposes, but have not been adopted officially as of the date of this communication. It is anticipated they will be adopted. They appear to some extent "user friendly" with BAPCPA but they may be inconsistent with the Interim Rules to some extent.

Our Procedures Manual Committee is monitoring the status of the Interim Rules and the new Southern District Local Rules, and we will try to keep our members up to date on new developments as they occur.

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