

June 27, 2007

12:00 pm

Federal Bldg., 600 S. Church  
Room G-19

# Brown Bag Lunch

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**Meeting called by:** Chapter 13 Trustee's Office      **Note taker:** Lori Campbell

**Facilitator:** Barb Foley / Carl Bekofske

**Attendees:** Barb Foley, Michael Benkstein, Rochelle Stevens, Kris Ennis, Barbie Stangler, Laura Breckenridge, Juanita Johnson-Haynes, Ben Allyn, Nick Oertel, John Hicks, James Rowe, Henry Sefcovic, John Streby, Alan Walton, Jim Toth, Lori Campbell, Stephanie Foust, Carl Bekofske

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## Minutes

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**Agenda item:** Review of Bankruptcy Statistics

**Presenter:** Carl Bekofske

**Discussion:**

Carl read statistics to the group from a publication by the Institute for Financial Literacy.

Gender	% of Debtors	% of US Adults
Male	46.4	49
Female	53.6	51

Age Range	% of Debtors	% of US Adults
18-24	3.6	7
25-34	22.7	14
35-44	28.6	15
45-54	22.4	14
55-64	13.8	10
65+	8.9	13

Ethnicity	% of Debtors	% of US Population
African American / Black	15.4	13
Caucasian / White	72.9	81
Latino / Hispanic	6.1	14
Asian	2	4
Native American	1.1	1
Other	2.5	1

Education Level	% of Debtors	% of US Population
Graduate Degree	4.7	8.9
Bachelors Degree	10.7	15.5
Associates Degree	7.6	6.3

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Some College	30.8	21.1
High School / GED	39.7	28.6
Primary School	6.2	17.4
None	.3	2.2

Income Level	% of Debtors
Less than \$20,000	44.6
\$20,000 - \$30,000	24.4
\$30,000 - \$40,000	14.4
\$40,000 - \$50,000	7.7
\$50,000 - \$60,000	4.2
More than \$60,000	4.7

Employment	% of Debtors
Employed	61.8
Unemployed	13.7
Retired	10.5
Self-Employed	7.7
Homemaker	5
Student	1.3

Marital Status	% of Debtors	% of US Population
Married	54	56.5
Single	24	24.8
Divorced	17	12.2
Widowed	5	6.5

Cause of Financial Distress	% of Debtors
Overextended on Credit	55.2
Unexpected Expenses	52.3
Reduction of Income	46.3
Job Loss	32.9
Illness/Injury	30.9
Divorce	15.2
Birth / Adoption of Child	7.9
Death of Family Member	7.8
Retirement	4.8
Identity Theft	2.1

(This is from a self-reporting study.) refer to <http://www.financiallit.org/>

**Conclusions:**

Action items	Person responsible	Deadline
✓		
✓		
✓		
✓		

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**Agenda item:** Discussion of Mortgages and Property Values      **Presenter:** Carl Bekofske

**Discussion:**

Laura Breckenridge noted that she had several cases in which she and the creditor's attorney disagreed as to value on the home. These valuation issues arose as a result of the effort to strip the second mortgage. The group discussed the decreasing values of real estate in the Flint and Saginaw areas. The group also discussed the impact this decreasing value had on the possibility of stripping the second (or third) mortgage. Laura indicated she has 6 cases currently where she is stripping the second mortgage, treating the junior lien as wholly unsecured. She is doing this by way of language in the plan as opposed to an adversary proceeding. Discussion ensued on the point of a "recordable" document to show the mortgage has been discharged.

Further discussion ensued about the possibility of stripping a junior lien. This may be a more relevant action in chapter 13 cases now that the real estate values are decreasing and in light of practices of lenders, who, in recent years extended the full value of the real estate when giving second and third mortgages.

On a related topic, Alan Walton mentioned that he just recently saw a situation where the mortgage company was pursuing a deficiency after the foreclosure. Juanita Johnson-Haynes suggested that if you know there is a possible deficiency pending you should consider a base plan rather than a percentage plan.

Alan Walton also mentioned that it would be nice if some standard for what constitutes a mortgage default could be established. For example, the debtor's June payment might not post to the Trustee's books until July 5<sup>th</sup> or 6<sup>th</sup> and by then the creditor has already filed a motion for relief. It goes to hearing, the debtor's are current on payments and the motion is denied but now both the creditor and debtor's attorney have incurred attorney fees which the debtor will have to pay, all for being only a few days late on one payment.

**Conclusions:**

Action items	Person responsible	Deadline
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**Agenda item:** Attorney Fee Report      **Presenter:** Carl Bekofske / Lori Campbell

**Discussion:**

Judge Shapero requested Carl provide a summary of typical or normal for attorney fees here in Flint. Lori reviewed the files confirmed for March, April, May and June 2007. During that time period 27 cases were confirmed requiring a fee application. Of those 27, four of the fee applications were actually for less than the "no look" fee.

342 cases were confirmed as flat fees, 94 of them for an amount less than the maximum "no look" fee.

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Henry Sefcovic asked if it would be possible to establish "no look" fees for certain things after confirmation as well. (i.e. a flat fee for defending a motion for relief or motion to dismiss) Barb suggested that we can't really do that because of certain court rules pertaining to fee applications but reminded everyone that if it is less than \$1,000.00 it can be done ex-parte. While that still requires an itemized fee application it at least eliminates the time involved in serving on the matrix and waiting for the required notice to pass.

**Conclusions:**

**Action items**

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**Agenda item:** The Confirmation Process

**Presenter:** Carl Bekofske / Barb Foley

**Discussion:**

Barb noted that when you are asking for a confirmation hearing to be adjourned you should provide a stipulation and order adjourning. Barb asked for any suggestions from the attorneys on how to improve confirmations:

A check-in process was discussed. So instead of waiting in line attorneys could sign in and be called in that order. Additionally it was suggested that attorneys who have reviewed their files in advance receive some kind of preference in the order that they are called.

Splitting the contested docket so that instead of having all contested hearings scheduled at 1:00 pm they could be broken up, some scheduled at 1:00, 2:00, etc. so that attorneys don't have to sit around all afternoon but only come back at the appointed time. Carl will discuss this with Judge Opperman and see if we can implement it for the July 10, 2007, hearings.

**Conclusions:**

**Action items**

**Person responsible      Deadline**

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**Agenda item:** FBBA Meeting

**Presenter:** Laura Breckenridge

**Discussion:**

Laura announced that the next FBBA Meeting will be held at 6:00 pm on July 27, 2007, at Rex Anderson's house on Lake Nepessing. Flyers will be going around with additional information at a later date.

**Conclusions:**