

/* We continue with Chapter 7, part two. */

SECTION 727 (11 U.S.C, 727)

727. Discharge.

(a) The court shall grant the debtor a discharge, unless

(1) the debtor is not an individual;

/* This seemingly innocuous section of the code results corporations, limited partnership and other business entities being incapable of receiving a discharge. In the best of lawyerly tradition, of course, the section doesn't say, "corporations, limited partnerships and limited liability companies are ineligible for discharges. The point is that shells of bankruptcy legal entities not be more attractive than starting new companies. */

(2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate Charged with custody of property under this title, has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed

(A) property of the debtor, within one year before the date of the filing of the petition; or

/* And as a result, persons make legal transfers then lay low for thirteen months. */

(B) property of the estate, after the date of the filing of the petition;

(3) the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case;

/* However, this section has been authoritatively construed as meaning that a consumer bankrupt not need keep "books." */

(4) the debtor knowingly and fraudulently, in or in connection with the case-

(A) made a false oath or account;

(B) presented or used a false claim;

(C) gave, offered, received, or attempted to obtain money, property, or advantage, or a promise of money, property, or advantage, for acting or forbearing to act; or

(D) withheld from an officer of the estate entitled to possession under this title, any recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs;

(5) the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities;

(6) the debtor has refused, in the case-

(A) to obey any lawful order of the court, other than an order to respond to a material question or to testify;

(B) on the ground of privilege against self- incrimination, to respond to a material question approved by the court or to testify, after the debtor has been granted immunity with respect to the matter concerning which such privilege was invoked; or

/* An important point. The debtor must be granted immunity first before being required to testify. The U.S. Attorney must then be contacted and receive permission from Washington to grant immunity. As a practical matter if a debtor declines to answer a question that is the end of the matter. */

(C) on a ground other than the properly invoked privilege against self- incrimination, to respond to a material question approved by the court or to testify;

(7) the debtor has committed any act specified in paragraph (2), (3), (4), (5), or (6) of this subsection, on or within one year before the date of the filing of the petition, or during the case, in connection with another case, under this title or under the Bankruptcy Act, concerning an insider;

(8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under sections 14, 371, or 476 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition;

(9) the debtor has been granted a discharge under sections 1228 or 1328 of this title, or under sections 660 or 661 of the Bankruptcy Act, in a case commenced within six years before the date of the filing of the petition, unless payments under the plan in such case totaled at least-

(A) 100 percent of the allowed unsecured claims in such case; or

(B) (i) 70 percent of such claims; and

(ii) the plan was proposed by the debtor in good faith, and was the debtor's best effort; or