Advantages of Bankruptcy when Closing a Business
By: The Los Angeles Bankruptcy Law Monitor

When closing a small business, there are advantages to using Bankruptcy as a means to winding up your small business. If you're Going Out of Business and are looking for alternatives to Bankruptcy, or a more detailed discussion on bankruptcy advantages, then you must read Gordon Eng's recent article in the Los Angeles Lawyer magazine of the Los Angeles County Bar Association entitled, Going Out of Business.

The advantages of using Bankruptcy as a means of closing your small business include having the Court judicially assist in winding up the financial affairs of the business by providing a single forum for contesting the validity of creditor's claims. The Court also provides a valuable mechanism for the liquidation of the debtor's assets and determining the allocation among the creditors based upon their priority in a chapter 7 bankruptcy. After the business has been liquidated and distributed among the creditors, any remaining debt is usually discharged.

Debts that cannot be discharged in a bankruptcy are

- Federal, state and local taxes
- Family support; i.e., spousal and/or child support
- Student Loans, absent undue hardship
- Secured debts
- Government imposed fines or penalties
- Fraud and punitive damage claims

A small business may file a chapter 7 bankruptcy as a corporation or LLC., otherwise the business owner must file a personal bankruptcy. If the business is not incorporated and the owner files a personal bankruptcy, they are subject to the means test in determining whether they qualify for a chapter 7, or if they must file under chapter 13.

Business owners who are shutting their doors would be wise to consult with an attorney who can help them work through the issues of closing a business in the most efficient manner that limits or eliminates their financial and legal exposure.

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