

Should a debtor be concerned that he/she will be committing bankruptcy fraud if they file?

Bankruptcy fraud is the last thing any bankruptcy petitioner wants to engage in when filing for relief under the bankruptcy laws. A petitioner convicted of bankruptcy fraud could find their discharge denied, face a large fine and potential jail time. So given that a debtor wants to avoid a bankruptcy fraud allegation at all costs the question becomes what could constitute fraud?

The bankruptcy laws are designed to give honest debtors a fresh start but the bankruptcy trustee will carefully scrutinize the filing and the following categories of issues are just some examples of items that will be red flags:

- 1) Incurring debt for the purchase of luxury items when the debtor was insolvent (lacked the ability to repay loan).
- 2) Taking cash advances shortly before the filing of the bankruptcy.
- 3) The transfer of assets to family members/relatives or friends prior to the bankruptcy.
- 4) Failure to list all of the debtor's assets.
- 5) Concealing any property from a spouse during a divorce proceeding;
- 6) Filing under a different name/social security number so that a filer's previous bankruptcy filing will not be discovered.
- 7) If in response to the Trustee's documentation requests the debtor a) fails to provide the documents, b) omits material information, or c) provides false documentation in response to the Trustee's request any of these actions will be problematic.

A bankruptcy fraud charge can have severe consequences. The best method to prevent this from occurring is to be open, honest, complete and accurate in all of the filings and testimony during the bankruptcy process.

If you are in need of immediate legal information, you may find the content located at <http://www.rkenneylaw.com/bankruptcy.html> helpful or you may contact me by email at ray@rkenneylaw.com or call the office at (623) 234-3536.