

United States Bankruptcy Court

_____ District Of _____

In Re

Case No. _____

Debtor*

Address:

Chapter 12

Social Security No(s):

Employers's Tax I.D. No(s). [if any]:

DISCHARGE OF DEBTOR AFTER COMPLETION OF CHAPTER 12 CASE

It appearing that the debtor is entitled to a discharge,

IT IS ORDERED:

The debtor is granted a discharge under section 1228(a) of title 11, United States Code, (the Bankruptcy Code).

BY THE COURT

Dated: _____

United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

EXPLANATION OF BANKRUPTCY DISCHARGE IN A CHAPTER 12 CASE

This court order grants a discharge to the person named as the debtor after the debtor has fulfilled all requirements under the chapter 12 plan. It is not a dismissal of the case.

Collection of Discharged Debts Prohibited

The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. For example, a creditor is not permitted to contact a debtor by mail, phone, or otherwise, to file or continue a lawsuit, to attach wages or other property, or to take any other action to collect a discharged debt from the debtor. *[In a case involving community property:]* [There are also special rules that protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.] A creditor who violates this order can be required to pay damages and attorney's fees to the debtor.

However, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case. Also, a debtor may voluntarily pay any debt that has been discharged.

Debts That are Discharged

The chapter 12 discharge order eliminates a debtor's legal obligation to pay a debt that is discharged. Most, but not all, types of debts are discharged if the debt is provided for by the chapter 12 plan or is disallowed by the court pursuant to section 502 of the Bankruptcy Code.

Debts that are Not Discharged.

Some of the common types of debts which are not discharged in a chapter 12 bankruptcy case are:

- a. Debts for most taxes;
- b. Debts that are in the nature of alimony, maintenance, or support;
- c. Debts for most student loans;
- d. Debts provided for under sections 1222(b)(5), (b)(9), or (b)(10) of the Bankruptcy Code and on which the last payment or other transfer is due after the date on which the final payment under the plan was due;
- e. Debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- f. Debts for personal injuries or death caused by the debtor's operation of a motor vehicle while intoxicated;
- g. Some debts which were not properly listed by the debtor; and
- h. Debts that the bankruptcy court specifically has decided or will decide in this bankruptcy case are not discharged.

This information is only a general summary of the bankruptcy discharge. There are exceptions to these general rules. Because the law is complicated, you may want to consult an attorney to determine the exact effect of the discharge in this case.

**ORDER DISCHARGING DEBTOR AFTER COMPLETION
OF CHAPTER 12 PLAN**

Applicable Law and Rules

1. Section 1228(a) of the Bankruptcy Code (11 U.S.C. § 1228(a)) states:

As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1222(b)(5) or 1222(b)(10) of [the Bankruptcy Code], unless the court approves a written waiver of discharge executed by the debtor after the order for relief under [chapter 12], the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 [of the Bankruptcy Code] or disallowed under section 502 of [the Bankruptcy Code], except any debt--

(1) provided for under section 1222(b)(5) or section 1222(b)(10) of [the Bankruptcy Code]; or

(2) of the kind specified in section 523(a) of [the Bankruptcy Code].

2. Section 524 of the Bankruptcy Code sets out the effect of a discharge in a chapter 12 case.
3. A number of the exceptions to discharge in a chapter 12 case are set out in detail in section 523(a) of the Code.
4. Section 523(c) states that the debtor shall be discharged from certain kinds of debts specified in section 523(a)
- unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under [section 523(a)(2), (4), (6), or (15)], as the case may be.
5. Fed. R. Bankr. P. 4007(c) provides that a complaint to determine the dischargeability of a debt in a chapter 12 case pursuant to section 523(c) must be filed not later than 60 days following the first date set for the meeting of creditors held pursuant to section 341(a). The court may extend the time for cause on the motion of a party in interest but the motion must be filed before the time has expired.
6. Fed. R. Bankr. P. 4004(f) provides for the registration of a certified copy of the discharge in another district.

General Information for the Clerk

This form is for use in a chapter 12 case in which the debtor has completed payments under the confirmed plan. Form B 18FH may be used if the debtor receives a so-called "hardship" discharge pursuant to section 1228(b) of the Bankruptcy Code before completing the plan payments.

It is contemplated that the discharge will be prepared by the clerk, rather than by a party in interest. The caption of a discharge for joint debtors should include all names used by each of the joint debtors within the last six years and the Social Security number of each debtor.

While Fed. R. Bankr. P. 2002 permits the court to order a person other than the clerk to give a number of types of notices, Fed. R. Bankr. P. 4004(g) requires the clerk to promptly mail to the debtor, all creditors, and parties in interest a copy of the final order granting discharge. The 1983 Advisory Committee Note to Rule 4004 states that notice of the discharge should be mailed promptly after the order becomes final "so that creditors may be informed of the entry of the order and of its injunctive provisions."

Form B 18F was formerly designated as Form 241 or Form 243A. Form B 18F has been revised to conform with the 1997 revision of Official Form 18.