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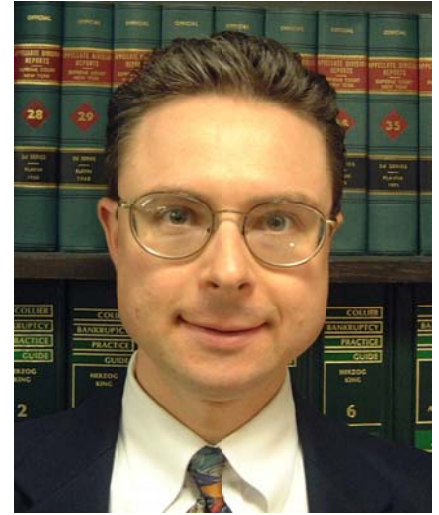
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CONSUMER BANKRUPTCY

Being Haunted by the Vampire Bankruptcy Bill: It's Just Politics

by Craig D. Robins, Esq.



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For seven straight years, Congress has come exceedingly close to enacting sweeping bankruptcy legislation that would make it much more difficult for consumers to discharge their debts. These bankruptcy amendment bills have either passed the House or the Senate, or both. For various reasons they have died before being signed into law.

Yet, as analogized in a recent *Christian Science Monitor* article, the proposed bankruptcy legislation is like a mythical vampire: it constantly dies, yet comes back to life to haunt us the following year, often for underlying political reasons.

Most bankruptcy attorneys hope that Congress will put a stake through the heart of the proposed legislation. Yet the bankruptcy bill will probably return to haunt us again next year. The reason is simple. Banks, credit card companies and financial institutions have huge incentives to supply big money to Congressional lobbyists and have given generously to the re-election campaigns of members of Congress, especially those Republicans who support the bills.

Opponents of bankruptcy reform argue that it is designed to boost profits for consumer

lenders by making it tougher for troubled families to get any relief in bankruptcy. Last year credit card companies racked up about \$30 billion in profits.

Nevertheless, it is unlikely that we will see any new bankruptcy legislation this year – an election year. President George W. Bush, who previously announced that he would immediately sign any bankruptcy amendment bill that was placed in front of him (one can infer that he would not even bother to read it), will certainly not want to incur the wrath of a large number of middle Americans who have lost their jobs and are considering bankruptcy relief.

The President is not the only one who does not want to become unpopular at election time with the enactment of a bankruptcy amendment bill. The mostly Republican members of Congress who support the bill and who are seeking election do not want to lose potential votes either. Yet, in all likelihood, we will see more proposed bankruptcy reform legislation emerge from the dead again next year, especially if President Bush is re-elected.

President Bush, while campaigning, delivers his constant message on the economy: "We are turning the corner and we are not going back. In another four years, the economy will be better." Despite this rosy rhetoric, millions of families currently need bankruptcy protection, especially the middle class.

Here are some statistics. Bankruptcy filings are way up and at an all-time high. Personal bankruptcies peaked in 2003 with a record 1.6 million cases filed - a rate of 185 an hour. That annual total is nearly double the 812,898 filings in 1993.

Last year, Elizabeth

Warren, a Harvard University bankruptcy law professor co-authored "The Two-Income Trap: Why Middle-Class Mothers and Fathers Are Going Broke," and last month, the *Wall Street Journal* featured a page-one article: "New Group Swells Bankruptcy Court: The Middle-Aged." The *Journal* story focused on "an emerging class of middle-age, white-collar Americans who make the grim odyssey from comfortable circumstances to going broke." Among the villains of this disturbing piece are the unstable job market and staggering amounts of personal debt.

That article quoted a passage from Professor Warren's book: "This year, more people will end up bankrupt than will suffer a heart attack. More adults will file for bankruptcy than will be diagnosed with cancer. More people will file for bankruptcy than will graduate from college. And, in an era when traditionalists decry the demise of the institution of marriage, Americans will file more petitions for bankruptcy than for divorce."

It is clear that the middle class, the middle-aged, and

middle America, require the ability to obtain bankruptcy relief. Let's hope that the Vampire's days are over.

Editor's Note (revised 2008): Craig D. Robins, Esq., a regular columnist, is a bankruptcy attorney who has represented thousands of consumer and business clients during the past twenty years. He has offices in Medford, Commack, Woodbury and Valley Stream. (516) 496-0800. He can be reached at CraigR@CraigRobinsLaw.com. Please visit his Bankruptcy Website: CraigRobinsLaw.com.