

When an Oklahoma business encounters severe financial problems, it must seek potential solutions much like any individual consumer. One of those options is filing for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code.

Unlike Chapter 7 and Chapter 13 bankruptcy, a Chapter 11 filing is usually done by a business looking for debt relief. Below you'll find information regarding how a Chapter 11 bankruptcy case gets started, how it progresses through the hearings and documentation-heavy phases, how a disposition is reached and ultimately how you should proceed if your business needs to find a way out from under mounting financial pressure.

### **Businesses and Companies Filing Chapter 11 Bankruptcy in Oklahoma**

A Chapter 11 case can either be voluntarily filed by the debtor or involuntarily by creditors under certain conditions.

Although it's rare, individuals can file for protection under Chapter 11 of the Bankruptcy Code. For an individual, this would generally happen when the person's debts are too high to qualify them for relief under chapter 13.

If an entity files a Chapter 11 reorganization case, the petitioner will need to file the following documents with the Bankruptcy Court:

- a schedule of assets and liabilities;
- a schedule of current income and expenditures;
- a schedule of executory contracts and unexpired leases; and
- a statement of financial affairs.

#### **If the petitioner is an individual, he or she must also file:**

- a certificate of credit counseling;
- evidence of payment from employers, if any, received 60 days before filing;
- a statement of monthly net income and any anticipated increase in income or expenses after filing.

In addition to the documentation required above, the entity filing bankruptcy must pay a \$1,039.00 filing fee to the Court Clerk. However, individual debtors can pay this fee in up to four installments, but only if they are not represented by an attorney.

### **Progression of the OK Chapter 11 Bankruptcy Case**

When the petitioner files the appropriate documentation, the case progresses to the next phase. This phase can include several complicated steps. The most critical step that's necessary is the filing of a Plan of Reorganization.

The Plan of Reorganization is a proposal for how the business will operate for the

foreseeable future based on its income, its assets and its liabilities. The petitioner becomes what's known as the "Debtor in Possession" of the estate. When a petition is filed, an "Automatic Stay" goes into effect which prevents creditors from continuing their collection efforts. Creditors have the right to ask that the Automatic Stay be relaxed or "lifted" to allow them to take back the collateral pledged against loans they may have made to the debtor. This action is usually strenuously objected to by the debtor because, if granted, it will often result in a primary revenue generating asset being taken from the debtor.

The Debtor in Possession is charged with making day-day decisions as to how to proceed under the current circumstances, but that party does not have unfettered discretion in terms of those decisions. The Court often names members to a Creditor's Committee, which helps to oversee the bankruptcy estate with the Debtor in Possession.

To receive any payment from a debtor in bankruptcy, the creditor must file a claim with the Court. This claim states in general that the creditor is owed money by the debtor and must be filed before a cut-off date set by the Court called the "bar date".

After a reorganization plan is filed, creditors have the right to approve it, reject it or object to it. The plan can be approved over the objection or rejection of the creditors under certain circumstances. This is called a "cram down" of the plan against the creditors

### **Disposition of the Chapter 11 Case in Oklahoma**

As part of the plan process, the debtor must file a written disclosure statement with the Court which must provide all parties with sufficient information about the affairs of the debtor to allow them to make an informed judgment about the plan as to whether to vote to accept or reject it. Once the disclosure statement is approved, the Court will set a date by which parties must cast their votes to accept or reject the plan.

If the plan is accepted, the debtor proceeds to carry out the provisions under which creditors are to be repaid. The Court will issue an order confirming the plan which tells all parties how they will be treated under it.