



Is Bankruptcy On The Cards?

The consequences of going bankrupt while playing Monopoly merely mean you are out of the game, in real life the effects are considerably more serious. This article looks at what happens when a Bankruptcy Petition is issued against you and the options available to you. As with all major financial problems, immediate action is crucial if the best possible outcome is to be achieved. You should also be aware that the issues and the law around Bankruptcy are complex and you should always seek the support of a qualified advisor specialising in this area.

What is a Bankruptcy Petition?

A bankruptcy petition is an application to the Court to declare the debtor bankrupt. On the Court's approval, the debtor's affairs are taken over by the Official Receiver, part of the Insolvency Service.

This will result in your assets being sold off (liquidated) and the proceeds are equitably distributed among the creditors after costs and expenses. Bankruptcy can be filed by a creditor who is owed at least £5,000.

The Immediate Effects of a Court Bankruptcy Petition

- The court notifies the Chief Land Registrar that the petition has been issued.
- Your name will be added to the bankruptcy register as a pending action. This makes it possible that your other creditors may become aware of your financial situation.
- There is the likelihood of your bank accounts being frozen.
- Your business could grind to a halt since, except with the approval of the Trustees in bankruptcy or the court, any transaction, including the sales of property or any other asset,

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that is made after the Bankruptcy Petition is issued, will be made void if, as a result of the petition, you are made bankrupt.

- The petition can only be withdrawn by the court at the hearing. This makes it probable that other creditors will learn of the petition and will try to add their claims to the action, widening the scope of your problems.

What Can You Do at this Stage?

Depending upon the specific circumstance that are a number of courses of action you can take:

- If you seriously believe that the debt is not owed then challenging the petition is a route you can pursue.
- If you only have problems with a single creditor you could look to come to an agreement with this petitioner as to how you will repay the debt.
- If you have other debts, then again an arrangement with all of them might be possible.
- However if these alternatives are not feasible the bankruptcy could be the best or possibly the only sensible option.

Challenging the petition

The first step is send the court and the petitioner a 'notice of the grounds of objection'. This explains why you are challenging the petition.

- This must be done at least 5 business days prior to the hearing
- If you miss this deadline it is likely to weaken the chances of its contents being taken fully into account

Making an agreement with your creditors

This is certainly a route that should be considered as a way to avoid bankruptcy and you should take the earliest opportunity to consult an insolvency practitioner for the best chance of success.

Taking legal advice

Not to mince words, the consequences of being made bankrupt can be life changing for you and your family. These may include

- Losing the business
- Losing your family home
- Being banned from being a Company Director for twelve months or more and restrictions on your business activities
- Making obtaining credit from suppliers etc. much more difficult

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Despite these points it may still be the case that bankruptcy is the best route for you, where there are no other options. It is therefore crucial you seek legal advice as soon as possible after you become aware of the situation. This will give you the best chance of making use of the options available and protecting your business and your family. The following bullet points will give you some idea of the areas a qualified and experienced advisor will be able to negotiate;

- Assessment of the situation to give you the options and their likely outcomes
- The necessity for court approval of transactions prior to the hearing of the bankruptcy petition
- Whether a challenge to the petition has a likelihood of success, including
- A counterclaim, cross-demand or set-off that is equal to or exceeds the debt
- The knowledge of, preparation and timely submission of all the necessary documentation.
- Communication with the creditor and their solicitors
- Preparation of the case in a way that will hold sway with the court
- Representing you before the court.

Finally, as with all serious financial problems the mantra is simple, act now for the best outcome, hoping that the situation will resolve itself, will only make matters worse.

If you want to find out anything further about this subject then please feel free to email me at vee@navigatebr.com or call on **01494 786 000** or **07961 116 321**.

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