

## I paid back my mother money I owed her, and now I need to file bankruptcy

I've been running up a lot of debt and can't pay it back. I wanted to make sure I paid my mother the money she loaned me, so I paid her back. Now I want to file bankruptcy to get rid of my other debts.

In the immortal words of astronaut Jim Lovell, commander of the Apollo 13 spacecraft in 1970, "**Houston, we have a problem**".

[What's the problem?](#)

The problem is that you paid back an "insider" (family members are definitely insiders), while you were insolvent (owed more than you could pay back), **within one year before you want to file bankruptcy**. That payment to your mother would be what is called a **preference payment**, a payment favoring a particular creditor (someone you owe money to) over other creditors.

[OK, so what's the real problem?](#)

The real problem is that the trustee assigned to your bankruptcy case **can sue your mother to get that money back** to pay to your creditors. And you don't get to apply "exemptions" (amounts you can protect from creditors) to that money because you can't exempt what you don't have.

[Wow, that's the last thing I want to happen! What can I do about it?](#)

The best thing to do is to **wait to file your bankruptcy until one year has passed** since you paid your mother.

[What if I really need to file bankruptcy now? Would the trustee really sue my mother? After all, she's already spent that money so it's gone.](#)

**There is really no way to know for sure** if the trustee would sue your mother to recover that money. It depends of the amount you paid her (less than \$600, no problem; a few thousand dollars, who knows; many thousands of dollars, plan on a lawsuit). It may also depend of how the trustee views his/her chances of your mother having enough money or property to collect from. So lots of "maybes" here. **Definitely discuss this with your bankruptcy attorney.**

[Why did I do such a dumb thing?](#)

Because you wanted to protect your mother (a noble wish) and didn't know any better.

[How could I have avoided doing that?](#)

**By consulting with a bankruptcy attorney as soon as you realized that your financial situation was going in the wrong direction.** By not waiting until the last minute, as many people do, to consult with a bankruptcy attorney. This stuff isn't simple, so give yourself the best chance of doing things correctly.

**If you had read this short article** first, you wouldn't be in the situation you're in.

[Can I pay my mother what I owe her before I file bankruptcy?](#)

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