



Bankruptcy Q & A

Converting a Chapter 13 Bankruptcy to a Chapter 7

by
Richard Fonfrias, J.D.
Chicago's Financial Rescue & Bankruptcy Lawyer
Fonfrias Law Group, LLC

QUESTION

My husband and I earned too much money to file a Chapter 7 bankruptcy. As a result, we filed for Chapter 13. We surrendered our home to the lender and then my husband lost his job. Then our bankruptcy was dismissed because we couldn't make the payments. At that point, why wasn't our bankruptcy converted from Chapter 13 bankruptcy to Chapter 7? What are our legal rights and what should we do? -- *Julie*

ANSWER

Dear Julie --

Since your husband lost his job, your income may have dropped far enough for you to qualify for Chapter 7 bankruptcy and erase your debt. And since you gave up your home, that shouldn't be a problem in Chapter 7.

In all likelihood, the reason your case wasn't converted to a Chapter 7 bankruptcy was because your incomes at the time you filed were higher than the median income in your state. You see, the law established a means test that dictates which type of bankruptcy you can file. At the time you filed, you couldn't qualify to file a Chapter 7 bankruptcy.

To convert your bankruptcy from Chapter 13 to Chapter 7, the court looks at your income for the six months before you file for Chapter 13. And for that six-month period, your income was too high to qualify for Chapter 7. If you had filed for Chapter 7, your case would have been dismissed or you and your lawyer would have had to take your case to trial.

Had you gone to trial, the judge could review your circumstances and consider your income only at the time you converted from Chapter 13 to Chapter 7. Even so, you can never predict the outcome of a trial.

In your case, it seems everything would have gone more smoothly by simply filing a new Chapter 7 bankruptcy, especially since your husband's income was no longer a factor.

Right now you have the opportunity to file a Chapter 7 bankruptcy and erase your debts, so please don't delay. After all, if your husband gets another job, your income may once again be too high to qualify for Chapter 7. So you should file and complete your Chapter 7 as quickly as possible.

Here's another reason to act quickly: Since your debts were not erased, your creditors know where you and

your husband live and work. They are likely preparing to come after you again for your debts and may file lawsuits against you.

So I urge you to file a Chapter 7 bankruptcy right now, while you qualify. This will erase your debts so when your husband gets a new job, his income won't have to go toward paying bills. Instead, you'll get the fresh start you want and can then build a secure financial future.

You're Invited to Call or E-mail.

"If you have questions about bankruptcy, foreclosure, credit card debt, loan modifications,
tax liens or other financial problems, please send your e-mail today to

rich@chicagomoneylawyer.com

RICHARD FONFRIAS, J.D.

Chicago's Financial Rescue & Bankruptcy Lawyer

Money problems solved. Peace of mind protected.

Founder & Managing Partner

FONFRIAS LAW GROUP, LLC

First National Plaza ❖ 70 West Madison Street, Suite 1400 ❖ Chicago, Illinois 60602
Telephone 312-969-0730 ❖ Facsimile 312-624-7954 ❖ www.chicagomoneylawyer.com

