



Law Office Of J. Thomas Black, P.C.

Woodlake Plaza • 2600 South Gessner Road • Suite 110 • Houston, Texas 77063-3214

Telephone 713-772-8037 • Toll Free 877-597-9358

Web Site: www.jthomasblack.com • Email tom@jthomasblack.com

MARCH 2014 BULLETIN

DEAR FRIENDS AND COLLEAGUES: SELL TEXAS-EXEMPTED HOME DURING BANKRUPTCY, YOU COULD LOSE YOUR EQUITY, SAYS APPEALS COURT!

MOST CASES LIKELY NOT AFFECTED, BUT STILL

Under Texas law, an unsecured creditor, even if they sue you and get a judgment against you, cannot force you to sell your home. Texas has one of the strongest homestead exemption laws in the U.S. But if you sell your home, the money is only safe from your creditors for six months. To keep it (or the benefit of it), you must buy another home with the money, or the money is no longer exempt and can be seized to pay a judgment. *Tex. Property Code §41.001(c)*.

Mark Frost filed chapter 13 bankruptcy in San Antonio in 2009. He claimed his Cibolo, Texas homestead as exempt using the exemptions available under Texas law. During the case, he asked the court's permission to sell his home and keep the money. The chapter 13 trustee objected to the extent that unless the money was put into a new homestead within 6 months, the sale proceeds would no longer be exempt, and should be paid to the chapter 13 plan to increase the amount of money to go to unsecured creditors. The bankruptcy court in San Antonio agreed with the trustee, and over \$40,000 was ordered to be held by the trustee to pay the rest of Mr. Frost's creditors in full, in addition to what was already being paid to them in the plan. On appeal, the U.S. district court affirmed the bankruptcy court.

Mr. Frost appealed again. On March 5, 2014, the 5th Circuit Court of Appeals ruled that if a debtor in bankruptcy sells a home during a bankruptcy that had been claimed exempt under the exemptions available under Texas law, the proceeds of the sale are only exempt for 6 months, unless the proceeds are re-invested in another Texas homestead within such time. *Matter of Frost*, 5th Cir. 2014.

To put it another way, if you are in bankruptcy, either chapter 7 or chapter 13, and you have claimed your home as exempt using the Texas homestead exemption, so long as you stay in your home, it is safe. And after the bankruptcy is completely over, you can sell the house and the sale proceeds are yours. But if you sell the house during the bankrupt-

cy case, you must reinvest the proceeds into another home within the 6 months, or risk losing the money. For most of our bankruptcy clients, this case is not an issue. Most of our clients do not have a large amount of equity in their home, so we are able to claim their home as exempt under the "federal" exemptions, those available under federal law.

So far as we can tell, the Frost decision makes no change to the ability to sell your home and keep the proceeds so long as the home was claimed as exempt under the *federal* exemptions. If you are in bankruptcy, intend to sell your home during the bankruptcy and you're concerned about the Frost decision, call the office and make an appointment to talk to Mr. Black. ■



Quotes:

Never be afraid to try something new. Remember, amateurs built the ark. Professionals built the Titanic.

--- Dave Barry

As long as you can laugh at yourself you will never cease to be amused.

---Anonymous

If it wasn't hard, everyone would do it. It's the hard that makes it great.

---Tom Hanks

We are a federally designated Debt Relief Agency under the United States Bankruptcy Laws. We help people find answers to their debt and credit problems, including, when necessary, helping them file bankruptcy under the U.S. Bankruptcy Code.

A LITTLE HUMOR – the “There’s always a downside” edition

David and Steve were friends, but they could never quite agree on anything. “Your problem is you’re a pessimist,” David said one day when they were fishing. “You can’t see the bright side of anything!”

“Oh yeah?” Steve asked. “Prove it!”

“Watch this.” David’s dog Spot was in the boat with them. David snapped his fingers. “Spot! Go back to shore and fetch me a can of beer!”

Spot carefully climbed over the edge of the boat. Then, miraculously, he simply walked across the surface of the water, opened the friend’s beer cooler with his snout, and carried a can of beer back in his teeth—all without getting wet.

“Now what do you say about that?” David asked.

Steve shook his head. “A dog that smart and he can’t even swim.” ■

Make a positive impression every day at your workplace

Here are a few habits to cultivate if you want to polish your image to a bright shine

Often the little things go a long way in impressing your boss and your co-workers. Here are a few habits to cultivate if you want to polish your image to a bright shine:

- **Keep your desk neat.** Cut back on the clutter. A clean workspace shows that you’re organized and have things under control.
- **Be sincere and generous with compliments.** Show appreciation to co-workers (and even your boss) for their good work.
- **Do your homework before meetings.** Know what’s on the agenda and be ready to discuss the topics being addressed.
- **Return phone calls and emails promptly.** It makes co-workers and customers feel valued.
- **Be on time.** Don’t make others wait for you, or wonder where you are. Show up for work, meetings, and other commitments promptly.
- **Wash the dishes.** If your organization has a group kitchen, share the duties of washing dishes, making coffee, cleaning up, and such. ■

Now you have better options to dispute a credit report error

If you are trying to correct a credit report error with one of the credit bureaus, you now have a new way to help do it. Recently Equifax, Experian and Trans-Union added a function to their dispute-handling system that makes it easier for you to explain your dispute. Now you can upload, mail, or fax any supporting documents you have to explain the errors in your credit report. Why care? Errors on credit reports can cost you \$\$\$ in higher interest rates on cars, houses, even higher rates for utilities and insurance. Check your credit regularly. ■



Thank you for your referrals! We accept cases in the following areas-

Bankruptcy.
Debt Collection Defense.
Debt Collector Harassment.
I.R.S. Collection Defense.
Stop Foreclosure and Repossession.
Student Loan Help.

ARE YOU IN CHAPTER 13 NOW?

Always keep the law office updated with your current address, telephone numbers, and email address. We may need to reach you quickly. You can check on the status of your Trustee payments, how much you still owe on your case, etc., by going to www.13datacenter.com to set up your user ID and password.

Lose job or overtime? Expenses increase? Want to give up property to lower payments? Call the office for a Motion to Modify worksheet. Complete it and email it or fax it to the office at 713-772-5058. We’ll review it and contact you if a change to your plan is possible.

J. Thomas Black was licensed as an attorney in Texas by the Texas Supreme Court in May, 1982. Mr. Black is Board Certified in Consumer Bankruptcy Law by the Texas Board of Legal Specialization.

We are a federally designated Debt Relief Agency under the United States Bankruptcy Laws. We help people find answers to their debt and credit problems, including, when necessary, helping them file bankruptcy under the U.S. Bankruptcy Code.