

Domestic Support Obligations Can't be Discharged

By Julia Swain

DOMESTIC SUPPORT OBLIGATIONS CAN'T be discharged under new bankruptcy laws, the Family Law Section learned at a June 7 question-and-answer session with Alex Moretsky.

The federal bankruptcy laws are codified in Title 11 of the U.S. Code. The new bankruptcy reform statutes apply to all cases commenced on or after Oct. 17, 2005. The old bankruptcy statutes still apply to any cases commenced before that date.

Under the old bankruptcy laws, generally, a debt will not be discharged if it is owed to a spouse, former spouse or child for alimony, maintenance or support pursuant to an agreement, decree or other court order. Under the new bankruptcy laws, "domestic support obligations" are non-dischargeable. These include debts that arise, before or after the bankruptcy is commenced, in the nature of alimony, maintenance or support owed to the debtor's spouse, former spouse or child pursuant to a court order, divorce decree, separation or property settlement agreement. However, debts incurred in connection with a divorce or separation that are not in the nature of alimony, maintenance or support to the debtor's spouse, former spouse or child are not considered "domestic support obligations" under the new bankruptcy laws. One example is a distributive award in an equitable distribution proceeding. Unsecured "domestic support obligations" in a Chapter 13 case are priority claims that must be paid in full under the debtor's bankruptcy plan. Non-"domestic support obligations" are not priority claims and need not be paid in full through a Chapter 13 plan.

Counsel fees owed in a domestic matter are not dischargeable and can be collected if specifically included as part of an agreement. The agreement must set forth that the debtor spouse agreed to pay the counsel fees to the non-debtor spouse's attorney. Family lawyers should beware of various loopholes concerning "domestic support obligations" in drafting divorce/support agreements.

There may be certain tactical advan-

tages to the non-debtor spouse from the bankruptcy. Allowing the bankruptcy action to proceed could result in the discharge of marital debts before the time for equitable distribution, which thereby

increases the value of marital estate.

Sometimes, by use of the automatic stay, a debtor spouse could prevent a marital asset from being part of equitable distribution and keep it in the bank-

ruptcy action. However, the non-debtor spouse can try to bring it out of bankruptcy by filing a motion for relief from the stay and then the bankruptcy court

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City Working to Attract Foreign Business

By Edward P. Kelly

ONE OF THE NEWEST TOOLS BEING USED to bring business to Philadelphia is the “business attraction brochure,” representatives of the city’s Department of Commerce told members of the International Business Initiative.

Karen Randall, director of business attraction and retention, and Carol Brooks, manager of international trade, both with the City of Philadelphia’s Department of Commerce, gave a presentation to the International Business Initiative Committee regarding steps to take in order to bring more international business to Philadelphia, and ways for Philadelphia businesses to expand internationally.

Randall explained that Select Greater Philadelphia handles the initial screening of all international business leads, and sends opportunities to the appropriate county. International business leads come

from many sources, including site selectors, brokerage firms, developers, architects, international protocol committees and law firms. And many times, Randall will call the companies themselves in an effort to generate opportunities.

The brochure provides descriptions of the city’s various business assets, and has been used for both domestic and international companies, as Randall has discovered that many businesses do not know where Philadelphia is located or what the city and the region can offer, even within the United States.

The City of Philadelphia has made efforts to make it an easier place to do business. The entire process has been streamlined under Alan Greenberger, deputy mayor of planning, economic development and commerce, with many departments reporting directly to him including planning and zoning. Developer services augments this new process by having all

the relevant city agencies meet with companies looking to set up shop in Philadelphia, and running through what can and cannot be done.

Brooks discussed a number of resources in the international business realm. She pointed out that Philadelphia has a growing diplomatic community that includes 34 consulates. In addition, there are several international chambers of commerce, including the Irish American Business Chamber and Network, Inc., as well as the regional port authority. Many of these groups work with companies looking to grow in overseas markets or to export to foreign countries. The U.S. Department of Commerce has a satellite office in Philadelphia that provides many services to the business community. Another invaluable resource is the World



Trade Center of Philadelphia, which will have all of its overseas representatives in Philadelphia for a conference in September. The function of the WTC is to

assist companies in growing overseas and to increase exports. The WTC focuses on providing services to businesses, including informative seminars throughout the year. Brooks also extolled the many benefits of the Ex-Im Bank, the Export/Import Bank of the United States. Its mission is to create jobs through exports, and operates similar to the Small Business Administration with many local banks participating.

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determines the outcome.

There are certain circumstances under which the automatic stay can be lifted. For example, if certain property is not part of the bankruptcy estate, the divorce action can continue to equitable distribution. If the property is included in the bankruptcy estate, then the automatic stay will likely remain in effect.

In Pennsylvania, the debtor can take either the federal or state exemptions to determine what becomes part of the bankruptcy estate and what does not. Any exempted property, which is thereby not included in the bankruptcy estate (such as retirement accounts), would not be subject to the stay.

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Nominating Panel



Chancellor Scott F. Cooper joins Mayor Michael Nutter after a June 9 news conference at City Hall where Nutter introduced Richie McKeithen as the city’s new chief assessor. Cooper will be part of a nominating panel for the city’s new Board of Property Assessment Appeals.

Photo by Jeff Lyons