

[Amber please but in the Bankruptcy Q/A Section]

Can I File Bankruptcy If I Work in the Marijuana Industry?

In Colorado with the legalization of recreational and medicinal marijuana an increasing number of people will be operating dispensaries, growers, and other related business that derive their income from the marijuana industry. What will happen if these people want to file a chapter 13, chapter 7 or chapter 11 bankruptcy in order to reorganize or discharge debts owed to creditors. The right to file bankruptcy is available to most people living in Colorado, however if you work in the marijuana industry the U.S. Trustee or bankruptcy judge appointed by the Federal government may deny you that right if your income is determined to be derived illegal activity under federal law.

There have is developing case law in which debtors have had a tough time filing for bankruptcy if they were involved in the marijuana industry.

If you are an employee of a marijuana business, you still may be able file bankruptcy. This must be analyzed on a case by case basis. Please call my office to set up a consultation.

If you are an owner of a marijuana business that sells or produces products containing THC for the recreational or medical marijuana industry, then under the current state of the law you can not file for bankruptcy. This may apply even if your company supplies goods and services to the marijuana industry.

A debtor in Colorado derived 25% of his income from renting out space to a business growing marijuana. The court denied bankruptcy relief, even though the debtor was not directly involved in the marijuana business. In another Colorado case an attorney was denied attorney fees for representing a debtor in a Chapter 13 proceeding as the Court found that the debtor was engaging an federal "illegal activity".

Similarly, in Oregon, a debtor's Chapter 13 case was dismissed due to the fact that income received derived from Federally illegal activity. Debtor who owned a medical marijuana business." A Chapter 13 plan could not be funded from the proceeds of an illegal activity. In California, a Chapter 11 reorganization plan was denied due to the fact that the Debtor's assets were connected to the marijuana industry and thus a bankruptcy trustee could not administer the assets due to the fact that the business and the assets were considered to be part of illegal activity under Federal law.

What options exist for a business owner who is involved in the marijuana industry ?

My suggestion would be to stop all involvement in the marijuana industry and do not derive any income from what could be considered to be Federally illegal activity prior to filing for bankruptcy. Businesses can be wound up and dissolved prior to filing for bankruptcy and a

debtor can stop earning an income from the marijuana industry so that there will be no involvement in potentially illegal activities prior to filing for bankruptcy. This option is not without risk as the Court may look to how the debts were incurred.

If you are the owner of a marijuana business you can try and settle debts for less than the full balance. Depending on the type of debt you are dealing with, creditors may accept 25-50% or less of your current balance. This is an option if you have funds available to settle your debts.