Bankruptcy 101:

Contracts, Client Contact and CYA

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Contracts, Client Contact and CYA

OUTLINE

• Introduction
• Contracts
  • Statutory Requirements
  • Detail of How Fees are charged, earned and refunded
  • Scope of Services
  • How and why the agreement will terminate
  • Other provisions
• Client Contact
  • Ethical considerations
  • Initial client meetings
  • Petition review and signing
  • Meeting of Creditors
  • From case developments to discharge and beyond
• CYA
  • Statutory requirements
  • Intake forms and submission of documents
  • Due diligence
  • Client acknowledgements
  • Uniformity of communication and internal note keeping
Contracts

• Statutory Requirements
  • Section 528 requirements
  • Forms required by local rules
  • State or local restrictions on unbundling services
Contracts

• Detail of How Fees are charged, earned and refunded
  • Flat fee, hourly fees, application for fees and when required
  • Earned on receipt v. tied to case milestones
  • Amounts refunded and conditions for refund
Contracts

- **Scope of Services**
  - Included or base services
  - Additional services or non-base services
  - Excluded services
Contracts

How and why the agreement will terminate
Contracts

- Other provisions
  - Office policies – delegation of work and confidentiality
  - File retention
  - Client obligations
Contracts

- Other provisions
  - Mandatory bar association notices
  - Governing law
  - Limited power of attorney
Client Contact

- Ethical considerations
  - Conflicts of interest
  - Disclosure demands of the code
Client Contact

- Initial client meetings
  - Conducting a probing inquiry
  - Advising of risks and benefits of bankruptcy options
Client Contact

- Petition review and signing
  - Meaningful and thorough review of Petition and Schedules, Statements, Plan, etc.
  - Signature under penalty of perjury
Client Contact

• Meeting of Creditors
  • Preparing client for trustee and creditor inquires
  • Securing supporting documents required
Client Contact

- From case developments to discharge and beyond
  - Providing uniform information about common case milestones
  - Explaining unique issues with options for considerations
  - Clear disclosure of limits of discharge
• Statutory requirements
  • 342(b)(1) Notice to Individual Debtor
  • 527(a)(2) Notice to Debtor
  • 527(b) Important Information about Bankruptcy Assistance Services from an Attorney or Bankruptcy Petition Preparer
  • 527(c) Instructions on Providing Information Required by Bankruptcy Law
• Intake forms and submission of documents
  • Initial appointment intake forms
  • Debtor questionnaire
  • Original documents from the debtor (tax returns, paystubs, etc.)
• Due diligence
  • Credit reports
  • Tax transcripts
  • Asset searches
  • DMV records
  • Real and personal property records
• Client acknowledgements
  • Pre-petition – risks associated lien strips, cramdowns, etc.
  • At signing
  • Post-petition – turnover of tax returns, Chapter 13 payments, advisements regarding new debts

CYA
• Uniformity of communication and internal note keeping
  • Using templates to communicate case milestones
  • Robust and contemporaneously kept note taking system for client communications including telephone, email and letters.

CYA
• Thank you for attending!

• NACBA: Educate, Advocate, Litigate