



WHAT IS A “SUBCHAPTER V” BANKRUPTCY CASE?

BY MELISSA DAVIS LOWE, PARTNER, SHULMAN BASTIAN FRIEDMAN & BUI LLP

The filing of “Subchapter V” bankruptcy cases has gained much popularity since its inception when the Small Business Reorganization Act of 2019 (SBRA) went into effect on February 19, 2020, creating the “Subchapter V” bankruptcy case. It is a subset of a Chapter 11 bankruptcy for reorganization under Title 11 of the United States Bankruptcy Code, but is specific for small businesses. It was created with the motivation of finding a more cost-effective and

time-efficient process for small businesses than the “traditional” chapter 11 process which is notoriously lengthy and expensive. The main impetus for the SBRA was to provide a way for small businesses with a salvageable enterprise to restructure such enterprise instead of having to fold simply because of the heavy administrative and costly burden of the only alternative—the “traditional” Chapter 11 process.

Who can file a “Sub V” case? Companies or individuals engaged in “commercial or business activities” with less than \$7.5 million (this debt limit is subject to change) in liquidated, non-contingent debt. And what are the benefits for filing as a “Subchapter V” debtor instead of as a traditional chapter 11 debtor? In summary fashion, debtors in a Subchapter V bankruptcy (1) do not have to satisfy the absolute priority rule, (2) do not have to file a disclosure statement, (3) do not have to worry about other parties filing a competing plan, (4) do not have to pay United States Trustee quarterly fees, (5) do not have to contend with a committee of creditors, (6) do not need an impaired consenting class to confirm a plan, and (7) do not have to pay administrative claims immediately. There can be pitfalls and downsides to filing a “Subchapter V” case but in general, the “Subchapter V” filing provides a streamlined and less costly process for small businesses.

The “Sub V” bankruptcy process is complicated and ever-changing so you should be sure to consult an attorney before filing a “Sub V” case, as you should if you are considering any bankruptcy filing. Shulman Bastian Friedman & Bui LLP handles every type of insolvency-related matter, from out-of-court workouts to restructuring and liquidation bankruptcies, and even dissolution.



Let us be your legal solution.



Real Estate & Corporate Transactions
Estate Planning
Litigation / Mediation
Creditors' Rights
Workouts & Restructuring

shulman bastian
friedman & bui LLP

100 Spectrum Center Dr., Ste 600
Irvine, CA 92618

949.340-3400
shulmanbastian.com