

**ANNULMENT OF BANKRUPTCY, ONE YEAR AFTER.....
THE "FAMOUS" LAW WITH IT'S SUBSEQUENT AMMENDMENTS, IN RELATION
TO ANNULMENT APPLICATIONS - BY OPERATION OF LAW - BY BUNKRUPTS,
PERSUANT TO THE PROVISIONS OF SECTION, 27 AND 27a, 2 OF 2(1) AND
2(β) OF 74(1) OF 2008.**

By Chris Iacovides

*In his previous article, Chris considered bankruptcy and its repercussions, with specific reference to the difference between **Annulment and Discharge**.*

Discharge is the procedure whereby the bankrupt obtains his/her release from the restrictions of bankruptcy and has no obligations to any of the liabilities due at the time of the receiving order, where as annulment, has the effect of reversing the bankruptcy, as if it was never made.

Discharge therefore, does not have the same effect as **annulment**.

Discharge does not remove the stigma of bankruptcy from the public domain. It should, however, relieve the bankrupt from his/her debt obligations, unfortunately, it does not.



For further details in connection with the previous article, those interested may peruse and download a copy of the same, by visiting the web site of CRI Group at www.crigroup.com.cy

*In this article, the author wanders if the «**architects**» and «**law-makers**» have themselves appreciated the difference; He considers the Bill presented to*

parliamentarians for enactment to be ill thought. Unfortunately, the selective committee, represented by Members of Parliament, when preparing the amendments, may not have considered the implications either.

It is clear in Chris's mind that the enactment of this law, as modified, does not provide the outcome the legislator intended. Unfortunately, bankrupts derive no real benefit, in that any after acquired assets may be appropriated by the Trustee of their Estate in Bankruptcy for satisfaction of their bankruptcy debts.

Bankruptcy in Cyprus, prior to the harmonization changes brought about by Cyprus's accession to the European Union ("EU") was and still is, governed by Chapter 5 ("CAP5") of the Laws of Cyprus and lasted for life.

The new law, as amended, purports to bring about the desired effect of ending one's bankruptcy after a period of four or fifteen years (if bankruptcy offences were committed).

Many believe that this has been achieved and it brings about an end to the burdensome consequences of bankruptcy, unfortunately they are mistaken!

*Reference to annulment in the legislation is wrong. The application bankrupts' are able to file, after the expiration of the statutory period, following the making of the bankruptcy order, is for their discharge and **not** for their annulment as they may believe.*

It is clear that those involved in preparing the Bill, looked to the English Insolvency and Enterprise Acts 1986 and 2002 for guidance, in relation to amendments made to CAP 5. Unfortunately, in the author's opinion, those involved in the drafting of the Bill and its subsequent amendments, may not have appreciated the consequences.

*It is understandable for assets belonging to a bankrupt during the time of the making of the order, to vest with the Trustee, even after his **discharge**, in the event that these assets, for whatever reason, have not been realized for the benefit of the Estate.*

*It is absence however, for a bankrupt, who suffered the consequences of bankruptcy, fully co-operated with his trustee and he is now ready for a **new start**, by applying for discharge (**not annulment as people***

believe they do by applying to the court) not to be able to acquire assets, as these are at risk of been appropriated by the Trustee, after one's discharge, in order to satisfy bankruptcy liabilities.

To this end, why the trouble in amending the legislation, if after acquired assets are venerable?

*Since the changes in the Law do not provide for the **write off of bankruptcy debts**, post discharge, then what is the benefit?*

Those responsible Officials and Parliamentarians involved in bringing about and amending Section 27 and 27(a) of CAP 5, should go back to the drawing board and make further amendments; Failure on their part to recognize the shortcomings in the Law may expose the government pursuant to its EU obligations.

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