

BANKRUPTCY

CASES AND MATERIALS

Third Edition

Margaret Howard

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CASES AND MATERIALS ON BANKRUPTCY

Third Edition

By

Margaret Howard

Professor of Law

Washington and Lee University School of Law

AMERICAN CASEBOOK SERIES®

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*To William Miller Howard, Jr.,
in memory.*

Preface

Bankruptcy law has it all: a long, tough statute that leaves huge and important issues unaddressed; rich case law development; sometimes an abundance and sometimes a dearth of legislative history; intriguing policy questions that go to the heart of what the law is and ought to be doing; theory, as well as real-world practicality; economic analysis that enriches the debate on some issues and adds little on others; and even a constitutional issue or two poking around. What subject matter could be better for a lawyer?

This casebook began as a collaborative effort with Professor Peter A. Alces of the Marshall-Wythe School of Law, College of William and Mary. We decided to write our own book because we discerned a gap (actually, a chasm) in the available teaching materials. Some books take either a purely problem-driven or wholly case-law approach, both equally unsatisfactory. Other books treat consumer and business bankruptcies separately. Still others proceed from an unremitting political or theoretical perspective. We could find no book of *manageable length* that *comprehensively* treats everything we believed students should learn in the basic bankruptcy course. Each of us used different books in the past and supplemented them extensively with our own materials. Thus are casebooks born.

We set out to write the perfect bankruptcy book, never giving a thought to the fact that authors who came before us—and to our minds missed the mark—undoubtedly did the same thing. We were also a natural pair, having concluded that we disagreed about so many things. Nevertheless, we came through the process with a deeper appreciation for the complexity of our subject, a new-found tolerance for those who view it differently, and an abiding respect for each other. One of my deepest regrets is Peter's decision that other obligations make it impossible for him to continue this work with me.

The contributions made to earlier editions by our research assistants remain inextricably imbedded in this book: first edition—Susan E. Sieger, Marshall-Wythe School of Law, The College of William and Mary, J.D. 1994, and Beth A. Dunning, Vanderbilt University School of Law, J.D. 1995; second edition—Andre J. Burba, Vanderbilt Law School, J.D. 2000.

M.H.
Lexington, Virginia

July, 2004

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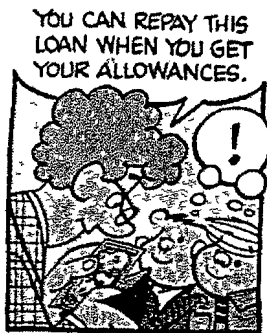
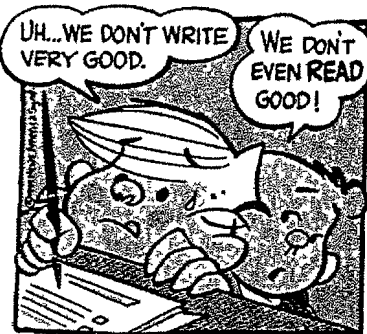
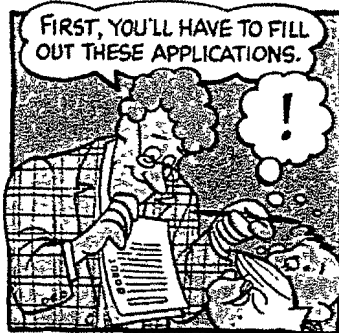
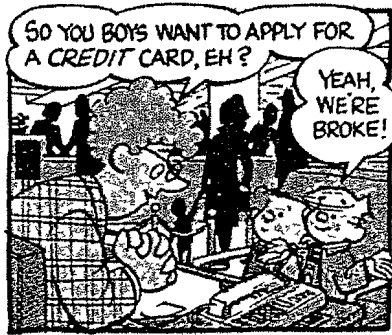
The Bankruptcy Code, 11 U.S.C. § 101 et seq., is generally referred to in this casebook by section number only.

Several subsections of the Code have been renumbered since their enactment. When these subsections are cited in cases, the original numbering is omitted and the current number is indicated in brackets.

Citations in cases and quoted material are sometimes omitted without indication, but other omissions are noted with ellipses. Some citations have been moved and edited for clarity and form. Numerous references are made in the cases to the Code's legislative history, principally the House Report, H.R. Rep. No. 595, 95th Cong., 1st Sess. (1977), and to the Senate Report, S. Rep. No. 989, 95th Cong., 2nd Sess. (1978), both of which are reprinted in U.S. Code Congressional and Administrative News (1978). Almost all of those references have been edited to the following form: H.R. Rep. No. 95-595 at ___, *reprinted* in 1978 U.S.C.C.A.N. at ___; S. Rep. No. 95-989 at ___, *reprinted* in 1978 U.S.C.C.A.N. at ___.

The original numbering of footnotes found in the cases has been retained. Editorial footnotes are indicated by letters.

DENNIS THE MENACE BY HANK KETCHAM



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