Ken: Jon, talking about the history of bankruptcy, you say that it goes way back to the times when we used to throw people in prison who could not pay their bills.

Jon: Well, we did. The old English law was that if you could not pay your bills then you would end up in debtor's prison. But the result of that was that you had a person in prison that was not making any money and a creditor that was not getting paid. In the late 1800s, as the industrial revolution kicked off, there was a real trend in changing the way of going about things. That way was to make a set of bankruptcy laws that would allow creditors to maximize their return and also keep people out of prison.

Ken: What happened to chapters 1, 2, 3, and 4? Where did they go?

Jon: There is a chapter 1 and a 3. Chapter 1 tells a little bit about the definition of the bankruptcy laws and then they added 3, 5, 7, 9, 11, and 13. Somewhere along the way, family farmers lobbied for their own law so now we do have a Chapter 12.

Ken: The former CEO of General Motors, Rick Wagner, was saying for such a long time that he did not want the company to go into bankruptcy protection because he thought people would not buy their cars. What about the fact that they did not work things out with all of their creditors? Wouldn't creditors like to work things out knowing that they are going to get paid instead of dealing with that situation?

Jon: In general that is true. The problem is that you have a lot of creditors, especially when you are talking about a company like General Motors. There is a tendency to just try and get the best deal possible. The problem is, outside of bankruptcy, there is just not enough transparency. So, if you are one creditor and you are getting twenty-five cents on the dollar, then you are definitely worried that someone else is getting fifty cents on the dollar. This is especially true if you are the owner of a large hedge fund who put money in there. Your shareholders would be pretty angry at you if you took the worse deal. Bankruptcy allows for a transparent process. It prevents the holdouts and the fear of getting into a deal that would be much worse for you as a creditor as to someone who is similarly situated.

Ken: Jonathan, what is your take on the Chrysler Supreme Court stay that was recently issued?

Jon: I think I'm one of the only people that is not surprised at all. The background is that, like many of these other prepackaged bankruptcies, where everything was essentially worked out before the filing of the bankruptcy, you had some holdouts. As part of the deal, Fiat was going to pay a purchase price that was dependent on the deal closing by the middle of the month. So, it is not a huge surprise that the Supreme Court was able to step in and have things hold for a week or two and see the arguments before they let things go through. It really does not hurt Chrysler or any of the creditors to wait the extra week. I would be surprised if there was not a resolution before that expiration.

Ken: In the environment that we are in, what is your advice to people as to what time they should start considering filing bankruptcy?

Jon: From an individual perspective, I will tell you where I see the tipping point. I see people all of the time who are right at the point where they owe as much money as they make in a year. Once you then started adding interest onto that, it is basically unsustainable for them to pay their debts for any reasonable period of time. We are talking about people who are not able to go to work, business owners who are not able to function, and really just people who would be a lot better off by filing. They give themselves a fresh start and a chance to start being productive again.

Recently though, in Phoenix especially, we see a lot of people who I like to call, "homeowner bankrupt." They are very upside-down on their house, they are trying to get a loan modification, they are falling behind, and all of a sudden they are about to lose their house.

Ken: We are seeing a lot more small-businesses filing for bankruptcy protection as well these days. Are they all essentially the same except for the "largeness" of the companies?

Jon: They are really fundamentally different. The big difference in comparing the family-owned business bankruptcy to a larger company like General Motors is that in the case of General Motors, you have a lender in the United States of America. Basically, we did not want to lend anymore money knowing the other debt that General Motors and Chrysler had. So, our deal as the creditor was that if they take on their other debts we would be happy to loan to them because we know we would get paid. The problem with the local bankruptcy is generally they are unable to get financing whether they are inside or outside a bankruptcy. So really, the smaller businesses that have a chance are the ones that are those that are making money and their big problem is that they have a lot of capital expenses that need to be reworked inside the bankruptcy.

Ken: One of the stories we reported earlier was that Chrysler dealerships around the country were closing. Back when General Motors closed their Oldsmobile division is cost them millions of dollars to do that. Do you foresee any problems in the future with the closing of dealerships with Chrysler and General Motors as a result of bankruptcy?

Jon: There is a real big advantage for General Motors and the bankruptcy filing. As widely reported, General Motors sells fewer cars than Toyota and Honda, and had five to six times as many dealerships. The problem with that, of course, is that it makes it difficult for any dealer to succeed, especially in the urban areas where there is more concentration. The bankruptcy law allows you to preempt state law that requires certain payments to be made when terminating a franchise agreement. So, when they did the Oldsmobile deal, they basically had to pay out a bunch of franchisees. In the case of a bankruptcy, they are allowed to cancel their ongoing obligations as part of their restructuring plan. They do not have to pay those dealers anything. That, in theory, is going to allow for more strength throughout their remaining dealer networks and allow them to compete against the other automakers.

Ken: Jonathan, tell the folks how to get in touch with you right now.

Jon: People can get in touch with us either by phone at (480) 295-3470 or online at www.discreetbk.com.