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## **Five Easy Ways to Lose a Discharge**

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# FIVE EASY WAYS TO LOSE A DISCHARGE

The materials below outline five common reasons a debtor may be denied a global discharge (§727) or denied the discharge of a particular debt (§523). For our purposes, the five easy ways to lose a discharge include:<sup>1</sup> 1) false oaths and false representations; 2) misconduct; 3) unexplained losses and failure to preserve records; 4) failure to follow divorce decrees and settlements and 5) failure to complete the plan. The cases here were chosen for their relevance or timeliness; however, many other cases can be found. In each case summarized below, the Debtor is referred to as “Debtor” and the party objecting to discharge is referred to as “Plaintiff, Trustee or Movant,” even in appellate cases.

## Index

Although there is much overlap between the concepts listed above, for the purposes of this paper, we have divided the code as follows:

### Section I: False Oaths and False Representations

§523(a)(2)(A)-(B)

§727 (a)(4)

### Section II: Misconduct

§523(a)(3)

§523(a)(4)

§523(a)(6)

§523(a)(7)

§727(a)(2)

§727(a)(6)

§727(a)(7)

### Section III: Unexplained losses and failure to preserve records

§727(a)(3)

§727(a)(5)

### Section IV: Failure to follow divorce decrees and settlements

§523(a)(5)

§523(a)(15)

### Section V: Failure to complete the plan

§1322(b)(5)

§1328(a)(1)

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<sup>1</sup> This paper also includes a miscellaneous section which describes additional reasons a debtor may lose, or have a particular debt excepted from discharge.

## **I. False Oaths and False Representations**

**The following is a sampling of cases which describe the denial of discharge, or the exclusion of a particular debt from discharge, due to false oaths and fraud under sections 523 or 727.**

### **Bankruptcy Code Sections Discussed**

#### **§523(a)(2)(A)**

a discharge does not discharge a debtor from any debt-  
for money, property, services, or an extension, renewal, or  
refinancing of credit to the extent obtained by-  
false pretenses, a false representation, or actual fraud, other  
than a statement respecting the debtor's or an insider's  
financial condition

#### **§523(a)(2)(B)**

a discharge does not discharge a debtor from any debt-  
for money, property, services, or an extension, renewal, or  
refinancing of credit to the extent obtained by-  
use of a statement in writing-  
that is materially false;  
respecting the debtor's or an insider's financial  
condition;  
on which the creditor to whom the debtor is liable for  
such money, property, services or credit reasonably  
relied; and  
that the debtor caused to be made or published with  
intent to deceive

#### **§727(a)(4)**

the court shall grant the debtor a discharge, unless  
the debtor knowingly and fraudulently, in or in connection with the  
case-  
made a false oath or account;  
presented or used a false claim;  
gave, offered, received, or attempted to obtain money,  
property, or advantage, or a promise of money, property or  
advantage, for acting or forbearing to act; or  
withheld from an officer of the estate entitled to possession  
under this title, any recorded information, including books,

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"Top Five Ways to Lose Your Discharge"