BANKRUPTCY BY THE NUMBERS
Lifestyles of the Rich and Bankrupt

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Over the past two years we have analyzed nearly 4,000 no asset chapter 7 cases filed in 84 districts nationwide[2/]. Our research, along with that of other researchers who have looked at a quantity of chapter 7 petitions, has shown that the typical chapter 7 debtor has a relatively low income, and has relatively high unsecured debts, mostly credit card debt.

Of course, not all debtors fit this general description. A small proportion of debtors have rather high incomes and/or enormous debt levels. In this article we look at the extreme cases from our sample -- the upper one percent of chapter 7 debtors based on various debt, income, and expense criteria.

The following table shows certain key debt, income, and expense figures at four levels:

1. The average for all no asset chapter 7 debtors;
2. The median (50th percentile) for all no asset chapter 7 debtors;
3. The cutoff point for inclusion in the top one percent. Since we have a total of 3,893 cases in our sample, this is the value of the 39th highest case.
4. The average for the 39 cases that make up the top one percent in our sample.

We did separate sorts to determine the top one percent of cases in each of the eight income, debt, and expense categories listed in the table. Although many cases were in the top one percent in more than one category, nearly 4% of our sample cases made the top one percent in at least one of the listed categories.

[1/] All views expressed in this article are those of the authors, and do not necessarily represent the views of the Executive Office for United States Trustees or the Department of Justice.

[2/]Our studies do not include any cases filed in Alabama and North Carolina, which are served by Bankruptcy Administrators.

CATEGORY	ALL DEBTORS AVERAGE	ALL DEBTORS MEDIAN	UPPER 1% (THRESHOLD)	UPPER 1% AVERAGE
SECURED DEBT	$38,760	$9,500	$268,299	$477,176
PRIORITY DEBT	$2,528	$ 0	$44,562	$156,498
UNSECURED DEBT	$40,564	$23,628	$277,933	$828,155
TOTAL DEBT	$82,852	$44,377	$515,376	$1,116,527
GROSS INCOME	$27,324	$23,484	$93,852	$132,588
ADJUSTED GROSS INCOME[3]	$26,592	$23,040	$87,996	$124,236
NET INCOME[4]	$21,444	$18,672	$70,884	$111,252
TOTAL EXPENSES	$24,324	$21,228	$81,540	$139,344

Average debt levels for the upper one percent of cases were more than 12 times the average for all debtors, and more than 20 times the national median. Income and expense levels for the upper one percent were about five times the national average and six times the national median. The large difference for the debt figures between the threshold for the upper one percent and the average for the upper one percent reflects the influence of a few cases with enormous debt. (For example, one debtor reported more than $7 million in total debt.)

TYPE OF UNSECURED DEBT: The one percent of debtors with the highest general unsecured debt accounted for about 20% of all reported unsecured debt. If our sample outliers are representative, the unsecured debt of the upper one percent nationwide is about $8 billion per year. Although all of the cases in our sample were filed as non-business cases, in 27 of the 39 cases with the highest unsecured debt the majority of the debt was business-related. Usually the petition indicated that the debtor was personally responsible for debts from a failed business. Of the 12 remaining outliers, 8 were the result of a deficiency or personal judgement, and one each resulted from medical, credit card[5], tax, and

[3] We define adjusted gross income here as gross income from Schedule I less alimony and support payments and business expenses reported on Schedule J.

[4] Net income is as reported on the bottom line of Schedule I.

[5] The petition of the debtors who reported credit card debt as the highest category made interesting reading. Somehow the debtors had managed to incur over $237,000 in debt on 30 credit cards. Both debtors had stable incomes, and there was no

unknown debts.

Although the 39 outliers had relatively high credit card debt ($32,051 on average), this category accounted for less than 4% of their total unsecured debt. Much of the credit card debt reported by the outliers was clearly incurred to subsidize the operation of a money-losing business.

OUTLIERS BY STATE: Debtors filing in California constituted about one-sixth of the cases in our sample, but nearly one-third of the debtors falling in the top one percent in the debt, income, and expense categories. Among the 11 other states for which we reviewed at least 100 cases, New Jersey had about twice the volume of outliers that would be expected, while Indiana, Michigan, and Ohio had less than one-half the outliers that would be expected based on the volume of cases reviewed.

TREATMENT UNDER MEANS TESTING: At first glance, it might appear that, under means testing as currently proposed, filings similar to these outliers would either be found abusive or converted to chapter 13. We believe that this would be the outcome in only a small portion of the cases and that most would be allowed to remain in chapter 7. Many involve debts arising from the operation of a business, so the means testing provisions would not be applicable. Others debtors would be able to demonstrate an inability to fund a chapter 13 plan. Of the remaining cases some would exceed the chapter 13 debt limits so they would not be candidates for conversion,(but might be forced into personal chapter 11 filings or out of bankruptcy altogether).

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evidence of serious medical problems or other catastrophe affecting their family. The husband had been a shoe salesman for 17 years, and the wife had managed a restaurant for 7 years. Their combined take-home pay was a little under $3,200 per month. Schedule B of their petition was probably one of the more detailed Schedule B’s in the history of bankruptcy - listing such items as 250 books, 47 hand tools, 39 towels, 23 posters, 23 knick-knacks, 13 office supplies, and a basketball pole. Total value of all the personal items listed on Schedule B was only about $4,000, so it was not clear how they had incurred the remaining $233,000 in credit card charges. Application of the provisions in the proposed legislation revealed that these debtors would be eligible for chapter 7 under means testing.