



### **“Criminal Liability During a Business Failure”**

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**M**any business owners who are in the process of recovering a filing company ask the following question:

Can I be charged criminally for my business failing?

In fact, you can be charged criminally if you take any actions that are illegal. Once your business gets into trouble—and there are certain legal guidelines used to define this (see the section on Zone of Insolvency—you have certain responsibilities to your creditors. In short, you need to operate differently with respect to those entities that are owed money by your company.

If you do not act in accordance with these legal guidelines, if you do not act ethically and legally, you can be held personally accountable, and criminal charges can result.

In some states, you can also be held criminally liable for your actions if you convey resources for less than their fair value. Suppose, for example, that you sell a \$10,000 computer to a friend for \$1,000 before the bankruptcy court can liquidate it at a higher value and pay the money to the creditors.

For these reasons, it is critical that you seek legal guidance early on in the process so that you understand all the important issues associated with this topic.

Am I responsible personally for my business debts?

To many business owners, this may sound like a dumb question. This is because most business owners fully understand that they have signed for things personally at some point during the operation of their business.



They know that credit card companies do not just give out credit cards in the name of a business, especially if the business is new and not established. Instead of issuing credit blindly to businesses with no assets, credit card companies require that the main business proponents sign a document guaranteeing the credit account.

I know from personal experience that many young business owners may not even realize that they are making personal guarantees. Many businesses are started in garages and many of those use credit cards for financing their initial expenditures.

What tends to happen in a business—and especially in a fast-growing business—is that the proponents of the business start out the operation in a very disorganized manner, and the business grows larger, and sometimes a business can grow quite large and never be properly organized.

Ideally, as the business grows, it can make efforts to transfer any personal guarantees by the business owners to the company.