

When bankruptcy is the best option

Phyllis
Furman



It was a day [Shirley Apollon](#) will never forget.

A field technician working for [Verizon](#), Apollon was on assignment driving a company truck through Harlem. She paused at a stop sign when a man pulled out a gun and aimed it squarely at her head.

Apollon hit the gas and got away safely, but the incident shook her enough to ask her bosses to be reassigned to a new neighborhood.

Today, Apollon, 37, who rents in [LeFrak City](#) in [Queens](#), is facing a new danger and is looking again for an escape.

A single mom with two daughters, aged 13 and 21, she's drowning in \$170,000 in debt, a combination of student loans, credit card bills, a car loan and three years of back taxes and penalties. Her income of \$70,000 a year at Verizon, where she climbs poles and installs phone, Internet and TV service, doesn't come close to covering her living expenses and debt obligations.

Apollon has no savings and has already raided her retirement fund of all but \$5,000 to help pay for her daughter's college degree. She's using credit cards to get by, digging herself into a deeper hole.

The bills are about to get bigger. Apollon is five months pregnant and the father of the child is out of the picture, as are the fathers of her two daughters. Apollon has not decided whether she'll seek child support for the baby. She received a paltry \$300 a year for her second child for five years until the money stopped coming. She decided it wasn't worth battling the child's father, especially given his tiny income.

With a little boy on the way, she soon won't be able to count on earning extra dollars from overtime. Lately, she's been gripped by fears over how she'll cope.

"My situation is grave," Apollon said. "I am in way over my head."

Apollon reached out to Your Money, which arranged a Daily News Money Makeover. She owned up to her mistakes, especially reckless spending. One of her big regrets was buying a 2005 Dodge Durango for \$19,000, even though she was so broke she hadn't paid her taxes. The SUV now costs her \$1,450 a month in expenses.

She blundered again recently, buying a \$4,000 time share in [Orlando, Fla.](#), with a friend.

Easy credit spurred Apollon to spend beyond her means and gave her a false sense of prosperity, she said.

"You spend years with no credit," said Apollon, who graduated from [St. John's University](#). Given her plight now, "Those were the best years of my life."

During a free sitdown with [Manhattan](#) certified financial planner [James Tissot](#), he offered a grim assessment: "I don't think we can avoid bankruptcy."

After reviewing her financial history, he noted, "You are going into debt to pay your debts. This is serious; we are talking about a child's future."

Tissot tallied up Apollon's monthly expenses, including her debt obligations, at \$5,600. Yet her after-tax pay is \$3,600.

Because the shortfall is so large, and her expenses will grow when the baby arrives, she doesn't have many options.

"You cannot afford this child with this debt load."

But while bankruptcy appears to be Apollon's only choice, it won't be an easy route to wiping out her debts. Two of her obligations, \$40,000 in taxes and penalties and \$80,000 in student loans, including graduate studies she didn't complete, can't be dismissed by bankruptcy, Tissot noted. And bankruptcy would wreck her creditworthiness for years.

Apollon is likely to file either Chapter 7 bankruptcy, which wipes out debts like credit card balances, or Chapter 13, a reorganization plan.

[Jay Fleischman](#), a [Brooklyn](#) bankruptcy lawyer and president of the Bankruptcy Law Network, suggested that Chapter 13 might be the better choice because she has so much debt she can't forsake.

"If she files for Chapter 7, it doesn't solve her problems," he said. "A Chapter 13 enables individuals to reorganize all of their debts over a period of time."

While bankruptcy would give Apollon a chance to make a better plan, Tissot cautioned that radical changes were necessary.

In the near term, she should stop making her credit card payments and focus on paying for her immediate needs, he said. That would save her \$850 a month.

Next, she must get a handle on her spending and account for every penny. Get rid of all of the credit cards except one, just for emergencies, he advised.

"Girl, you're going back," Tissot said.

"You said the best time in your life was when you did not have credit cards."

Tissot told Apollon she could save \$400 a month by cutting back on her phone bills, dining out and cable TV. Ditching the SUV would save about \$1,300 more, said [Eli Newsom](#), a financial planner who works with Tissot.

Any extra money should go toward an emergency fund. Tissot wants Apollon to build up three to six months' worth of living expenses.

It's also worth speaking to the [IRS](#) about her tax bill, she was told. Some of her debt is a 10% penalty for early withdrawals from her 401(k) retirement plan to pay for her daughter's tuition. The penalty could be waived since the money was used to pay for education.

Tissot was blunt about the tough times ahead for Apollon. He also did not shy away from giving her advice beyond money. "You cannot afford to have another child," he said. "Condoms are cheap. Carry them with you."

Apollon said her three-hour financial overhaul left her feeling empowered.

Tissot said he believed in her chances. "You will get through this and survive," he told her.

"I have to change the way I think about money," she concluded.

pfurman@nydailynews.com