



In light of the volatility in the national hemp market last year, the KDA is offering the following guidance for hemp growers in the event they are concerned about a processor bankruptcy.

### What To Do If Your Processor Declares Bankruptcy

1. **Hold on to your paperwork.** Keep a file containing copies of the papers that can help you document the debt you're owed, for example: the contract you signed with the company that promised to buy your crop, any letters or emails you sent or received, receipts documenting delivery of the crop, weigh bills or other documentation of the quantity of your delivered crop, promissory notes, and any other papers that can help tell the story.
2. **Talk with a lawyer.** If you had a contract with a processor who promised to pay for your harvest but didn't follow through on that promise, then you may need to contact an attorney to discuss what options you might have to seek payment. By law, KDA is not allowed to provide you legal representation or legal advice. If you have legal questions about your specific situation, you will need to contact an attorney in private practice.
3. **Make sure your claim for payment is accounted for.** If you believe you are owed money by a company that is in bankruptcy proceedings, your attorney can assist you in determining whether you need to file a *Proof of Claim (Form 410)* to ensure that your claim for payment is included in the Bankruptcy Court's list of debts that are owed by the company. In some cases the company will file with the Court a "schedule" that lists the names and addresses of its known creditors. Your attorney can assist you in determining if you are listed on one of those schedules; if your name appears there, your attorney also can help you verify that the dollar figure listed as the amount of your claim is correct.

If the schedule's information is correct, then your lawyer may feel confident that claim is properly accounted for and no additional action is needed. If you're not listed on a schedule, then you may need to assert your claim by filing a *Proof of Claim*. Your attorney can help you decide what to do.
4. **Ask your lawyer what other options are available.** Your attorney may be able to help you explore other options that may be available to you. For example, sometimes the lawyers representing the bankrupt company will send out a form letter to everyone who received a payment from the company in the last 90 days prior to the bankruptcy filing date, asserting a demand for the repayment of those amounts. In many cases the recipients of those payments will be able to show that because the payments he or she received were in exchange for goods or services that were actually provided to the company (for example, a harvested crop that was delivered to the now-bankrupt company), it would be unfair to require the payments to be refunded. Your attorney will be able to help you explore these options.

*Looking ahead, Kentucky's hemp community faces some significant challenges on the horizon: declining market prices, access-to-credit challenges, and a business climate that has been hindered by bureaucratic inaction at the federal agency level, particularly in FDA and the U.S. Drug Enforcement Administration. These challenges mean there is inherent risk for those farmers and entrepreneurs who choose to enter this new market. As KDA states in every grower and processor orientation, a cautious approach is the best approach.*