

# BUSINESS & Classifieds

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## ASK A LAWYER

### Boss's bankruptcy can be liberating

**Q. If your employer files for bankruptcy and rejects your employment agreement, is the non-compete provision of that agreement enforceable?**

A company in Chapter 11 bankruptcy protection, subject to U.S. Bankruptcy Court approval, may reject executory contracts, including employment agreements.

Generally, if the company demonstrates that it exercised sound business judgment in its decision to reject an executory pact, the bankruptcy court will grant the request.

Rejection relieves the company of any future burden imposed by the contract, but also precludes it from availing itself of the benefits of the contract.

Therefore the company should not be able to enforce a covenant not to compete contained in an employment agreement following rejection of the agreement.

To the extent a company attempts to do so, employees should consult their attorney to obtain advice on the protection of their rights under bankruptcy and state-governed non-compete law.

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Do you have a business question for a lawyer? E-mail [businessnews@northjersey.com](mailto:businessnews@northjersey.com).