



AMERICAN
BANKRUPTCY
INSTITUTE

2021 Rocky Mountain Bankruptcy Virtual Conference

The COVID-19 Crisis: How Deep, How Long, and Its Impact on Bankruptcy Filings

Sponsored by Dentons Durham Jones
& Pinegar

Hon. Kevin R. Anderson

U.S. Bankruptcy Court (D. Utah) | Salt Lake City

J. Thomas Beckett

Parsons Behle & Latimer | Salt Lake City

The COVID Crisis: How Deep, How Long and Its Impact on The Economy

Beware the
Black Swan
of 2020 –
and 2021?



1

Takeaways

- ✓ Unlike any other recession in history.
- ✓ A 4% to 5% hit to the economy (so far).
- ✓ A possible swift recovery (vaccine dependent).
- ✓ Forbearance is not debt forgiveness.
- ✓ Pent-up need for bankruptcy relief.
- ✓ Vaccine effectiveness, COVID mutations, new administration, and the prospect of natural or man-made disasters in 2021 create uncertainty.

2

2

Econ 101: Gross Domestic Product

GDP – most accurate indicator of economy's health.

Consumer spending is GDP's most important component (68%).

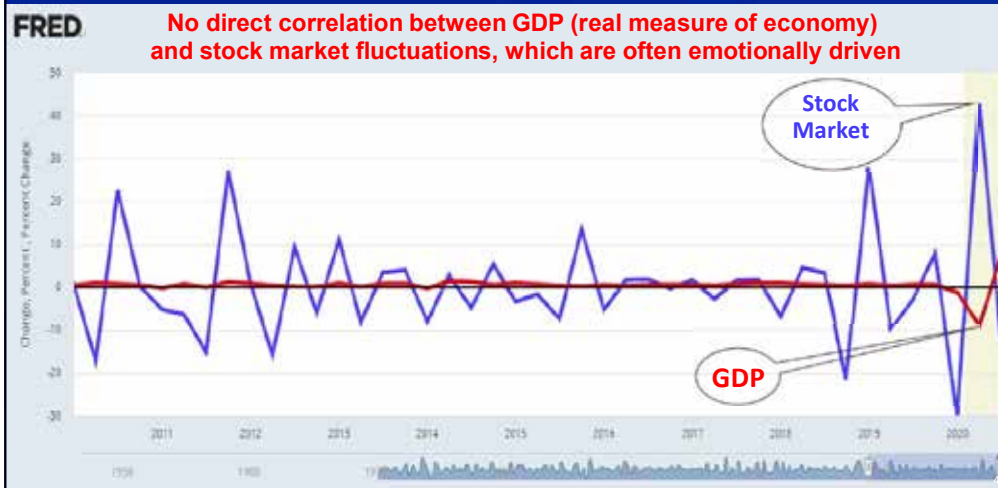
Thus, changes in consumer spending have a big impact on GDP.



3

3

Note: The Stock Market is Not the Economy!



4

Where Were We at the Beginning of 2020?



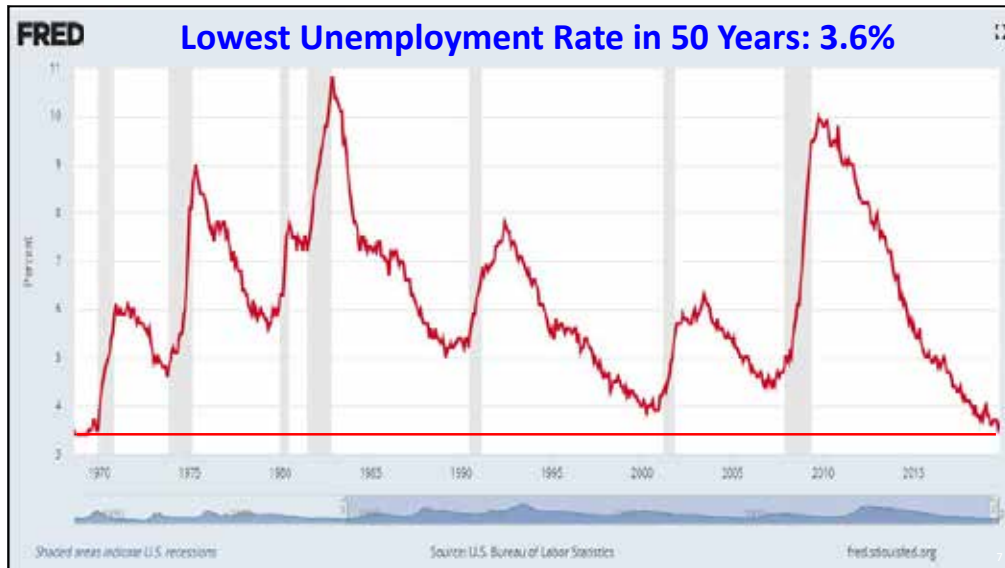
“I wish there was a way to know you were in the good old days before you actually left them.”



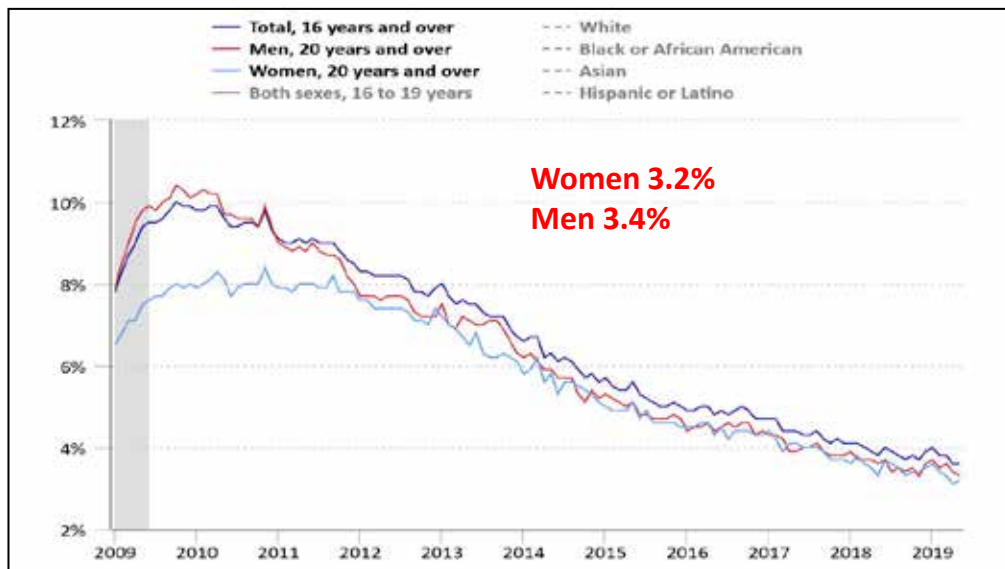

5



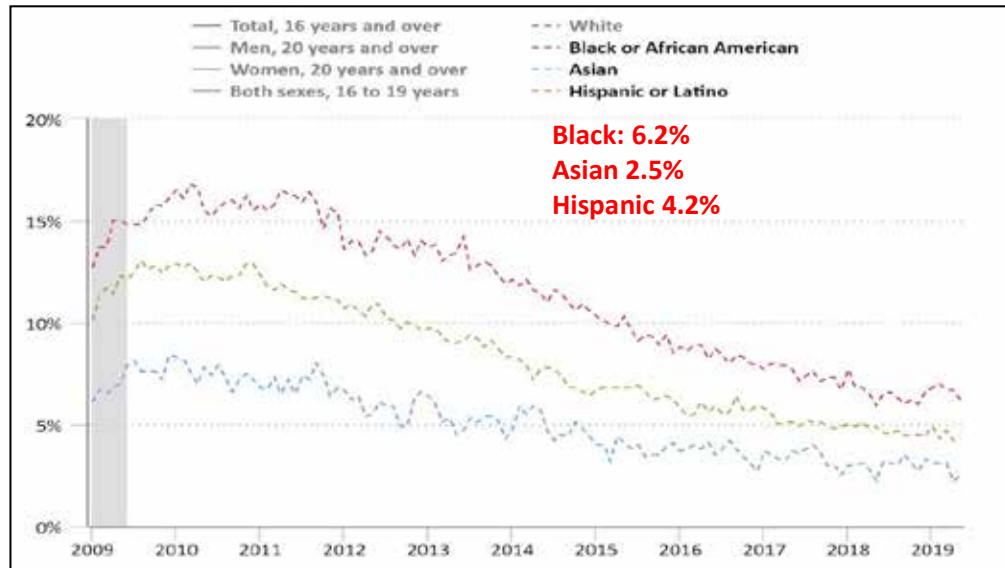
6



7



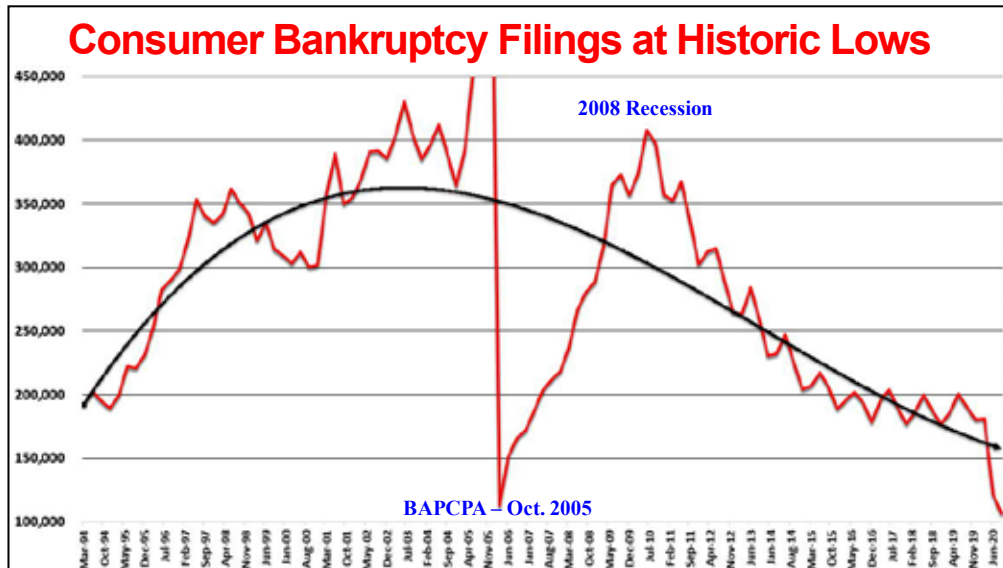
8



9



10



11



12



13

When is it Officially a Recession?

When declared by the National Bureau of Economic Research

**On June 8, 2020, NBER officially declared
a recession starting in February 2020**

*Unprecedented because not
yet 2 Qtrs. of GDP decline*

14

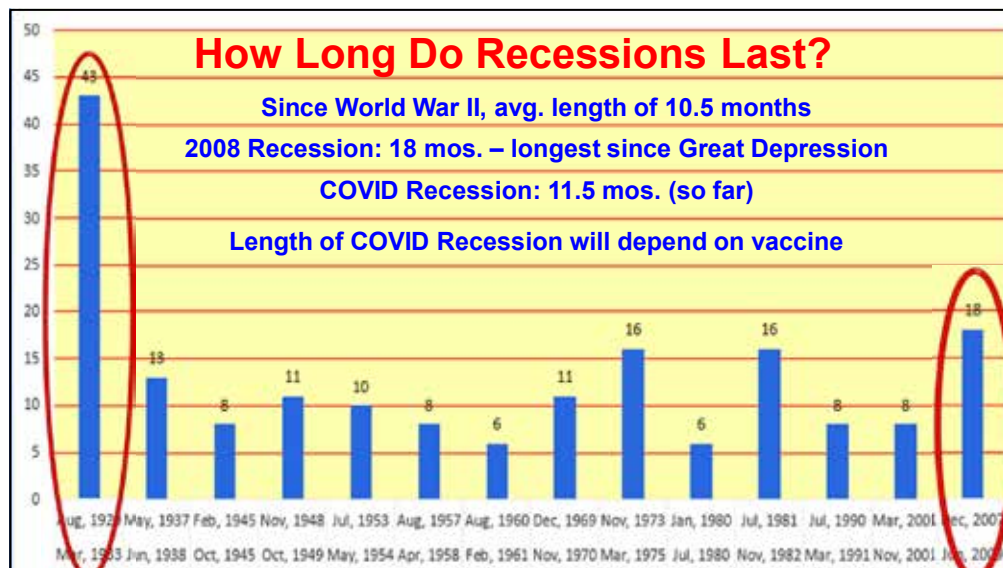
Recession vs. Depression

Recession: After recovery, consumer buying habits return to normal.

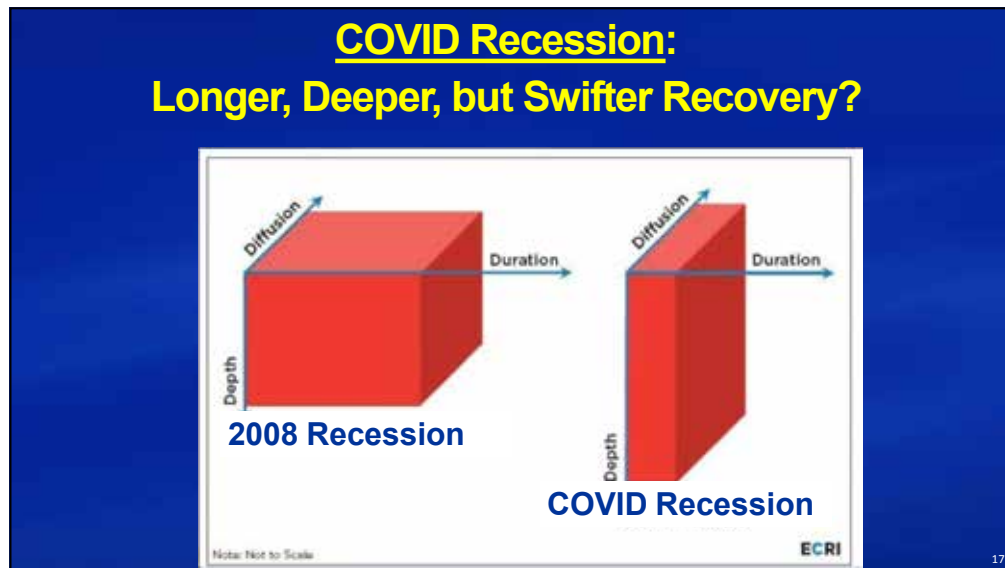
Depression: After recovery, a transformative shift in consumer priorities and behaviors.



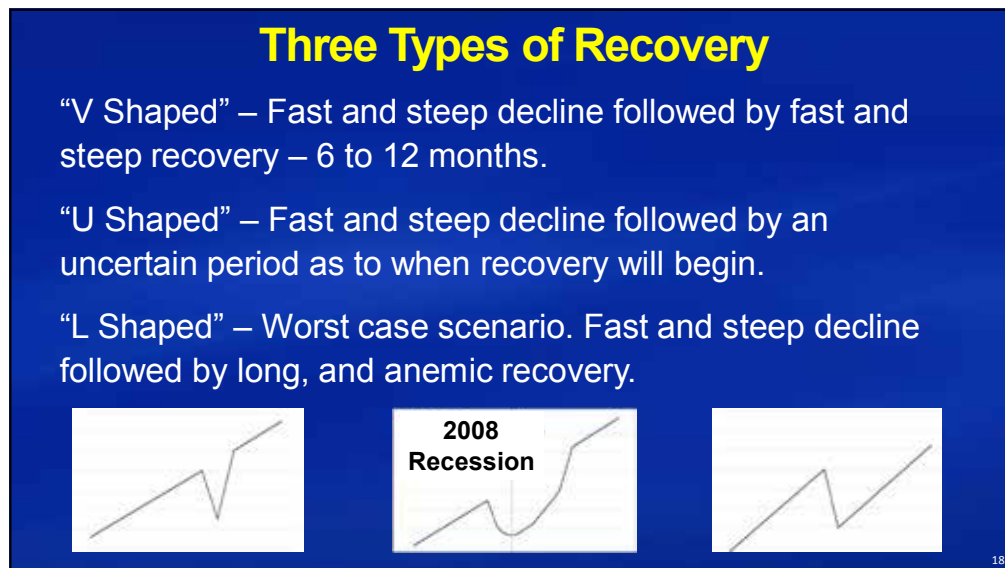
15



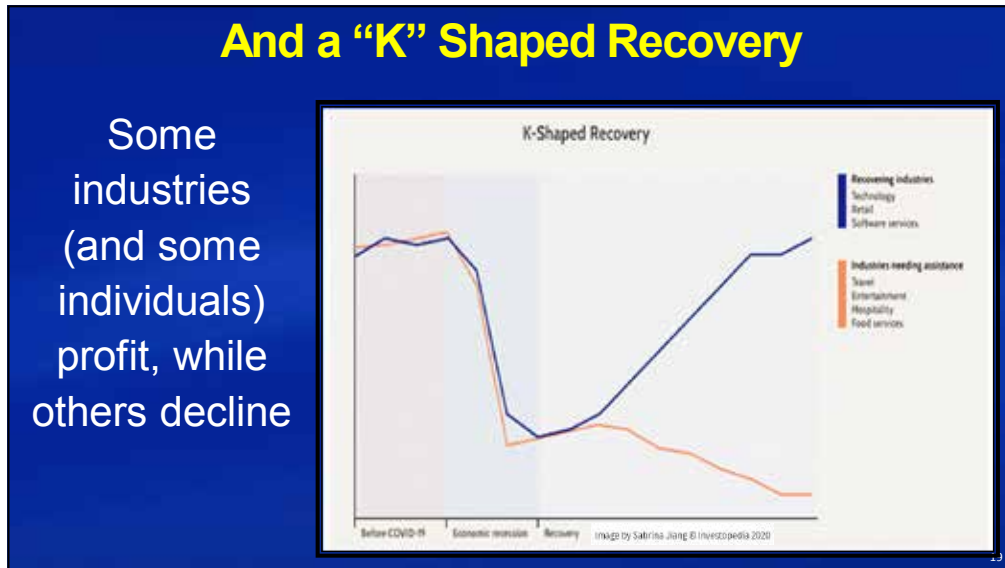
16



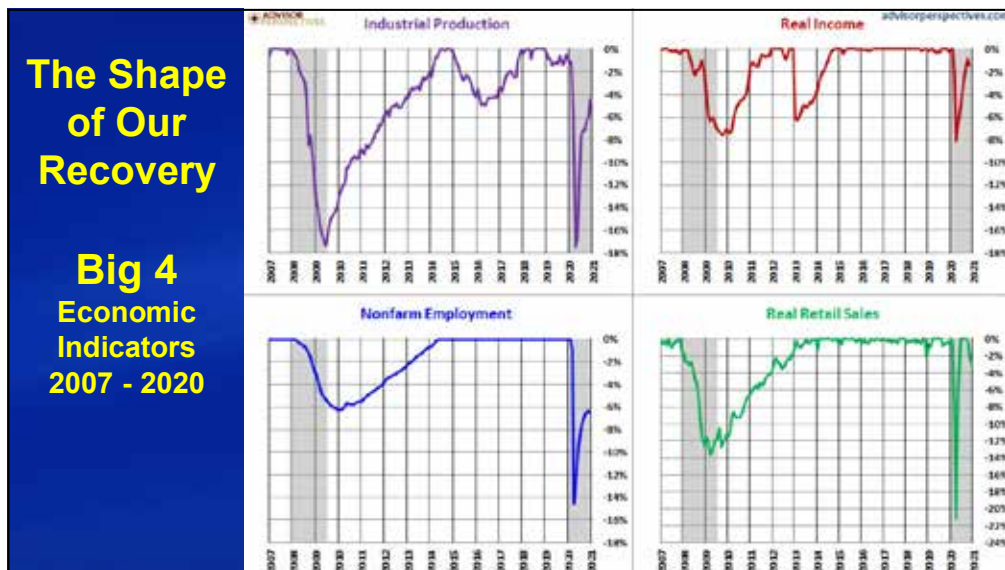
17



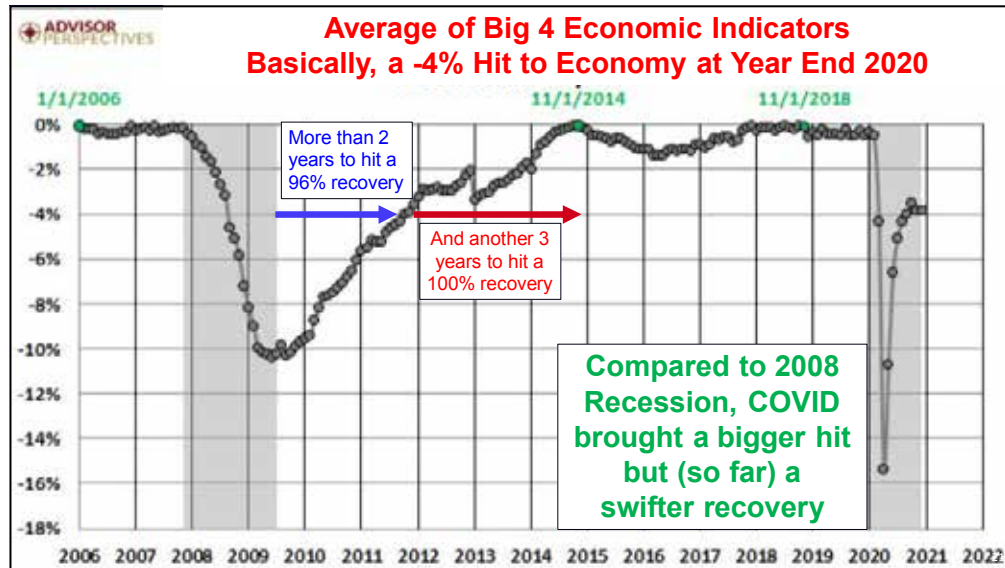
18



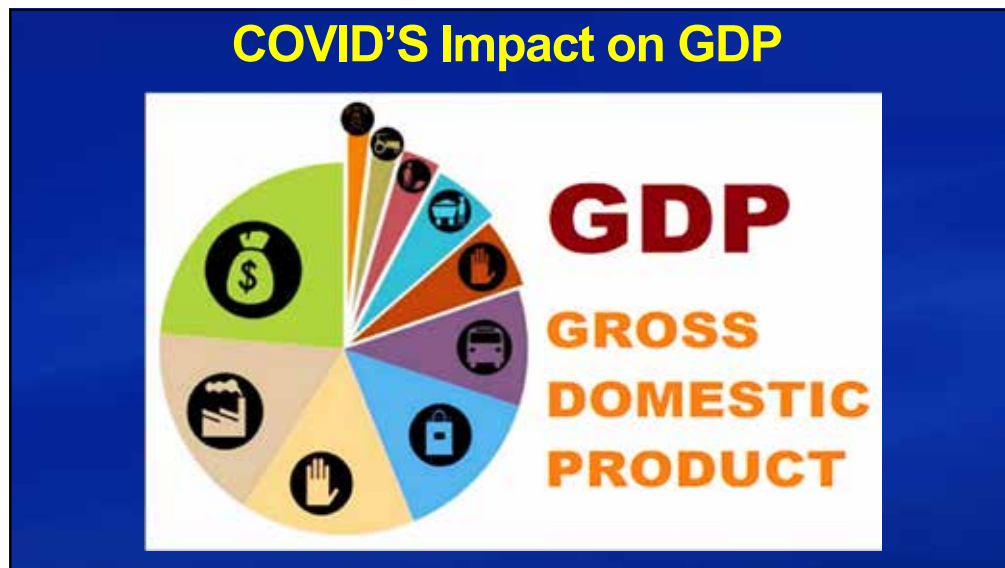
19



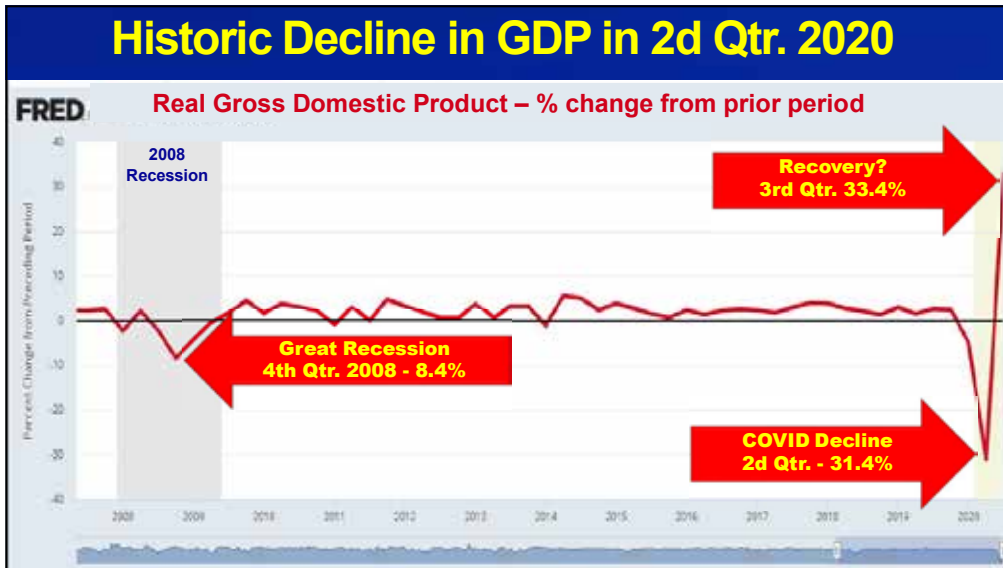
20



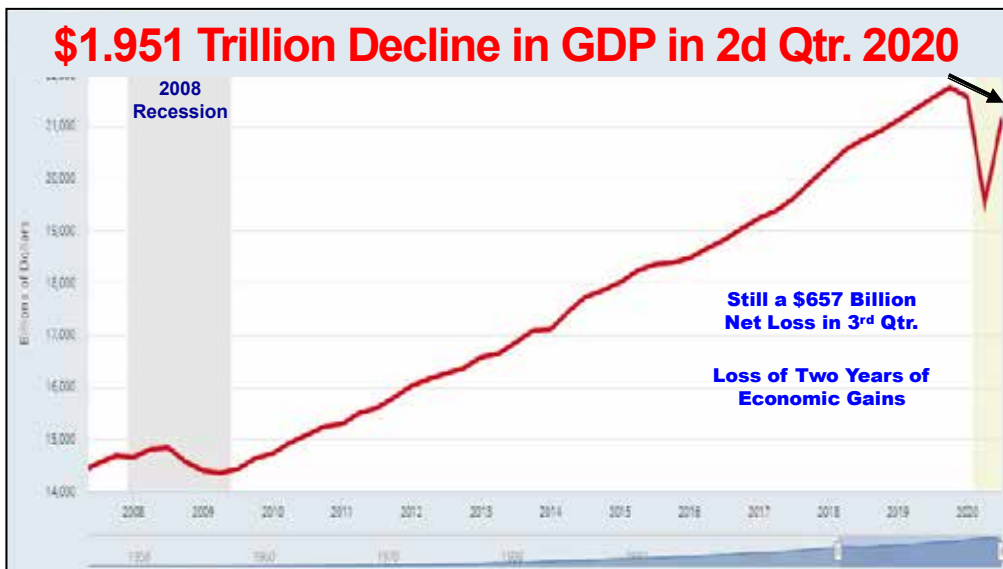
21



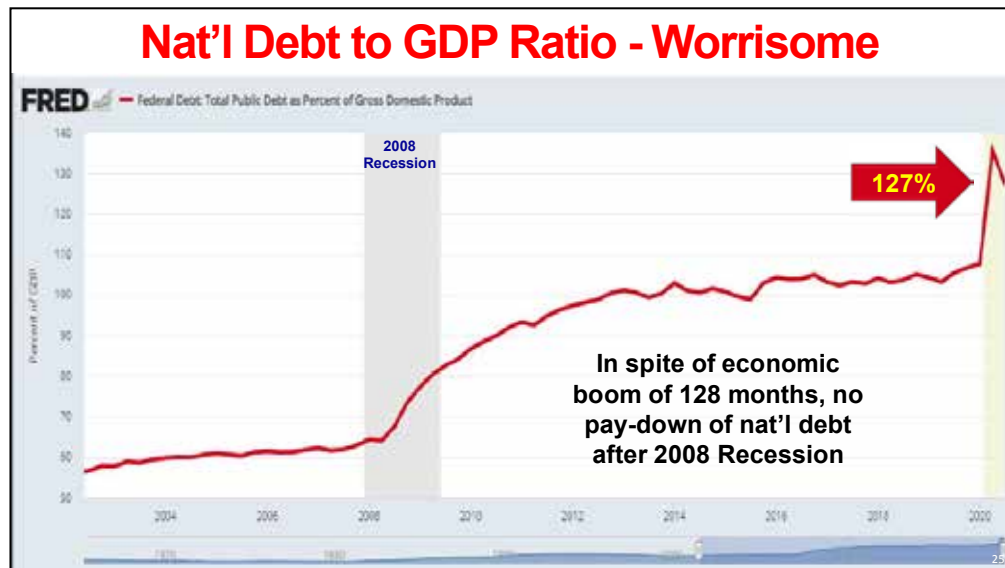
22



23



24



25

Capitol Report

Yellen says smartest thing to do now is 'act big' to help struggling Americans

Published: Jan. 18, 2021 at 6:47 p.m. ET

By Greg Robb

With interest rates at historic lows, benefits will far outweigh the costs, Biden's pick for top Treasury job will tell Senate

48

26

26



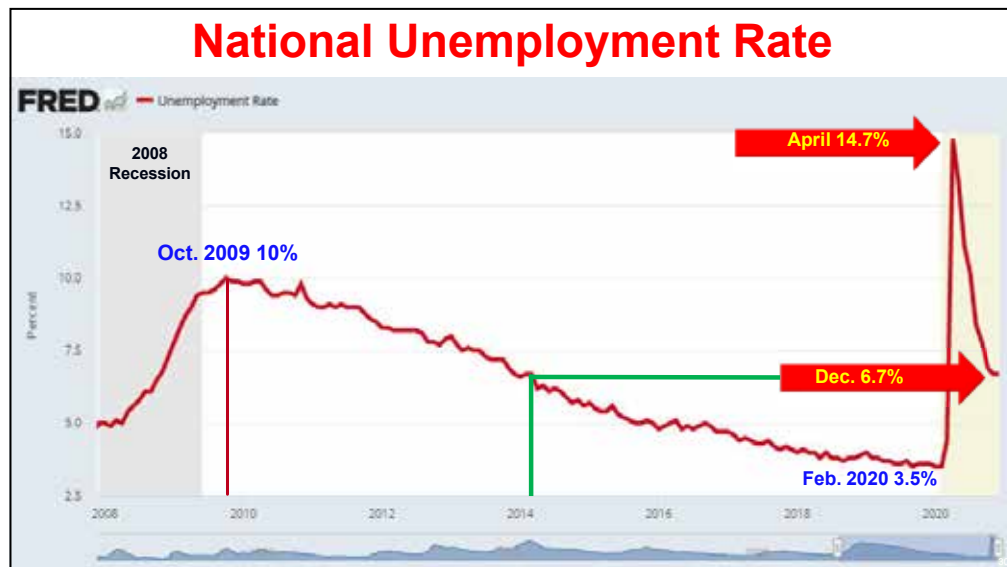
27



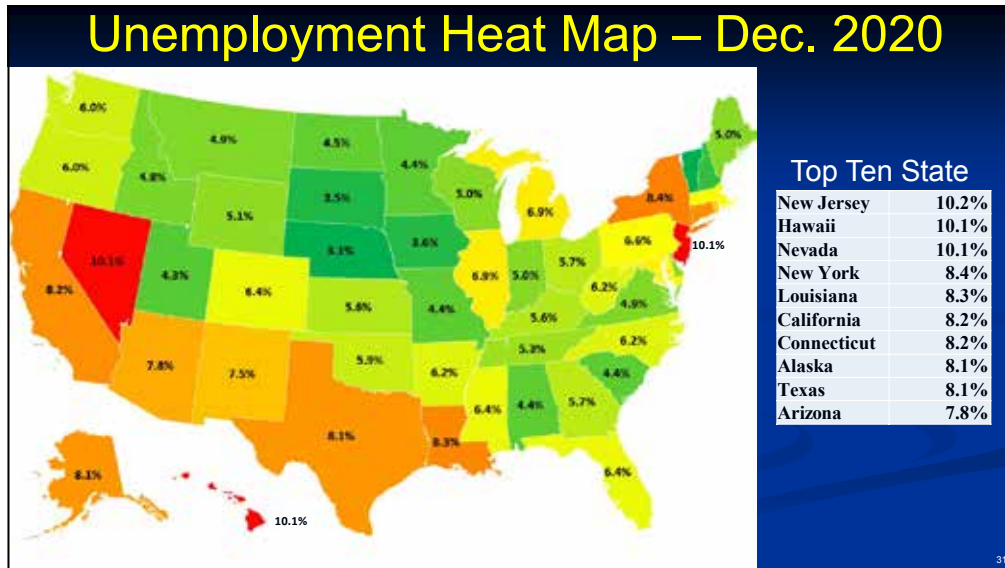
28



29



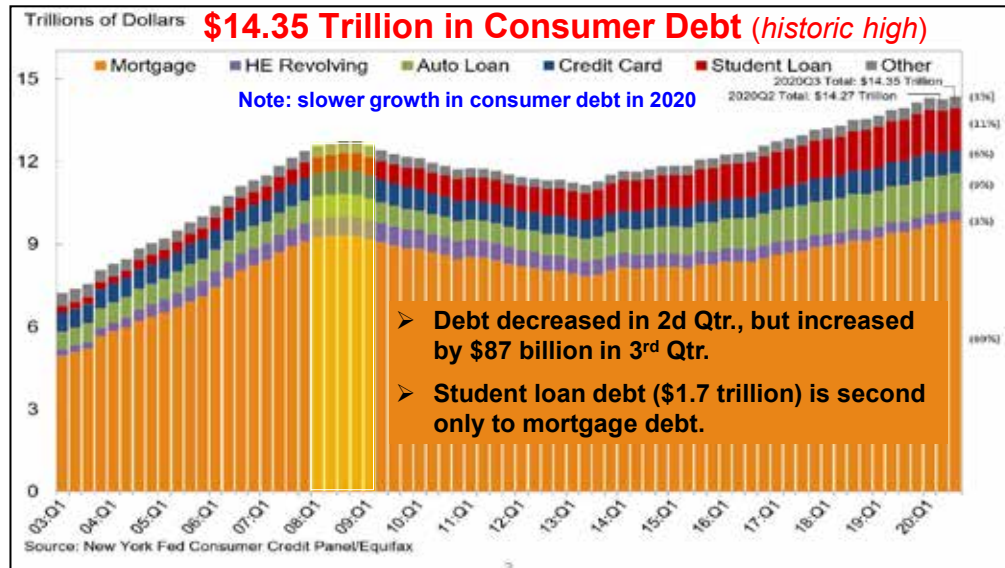
30



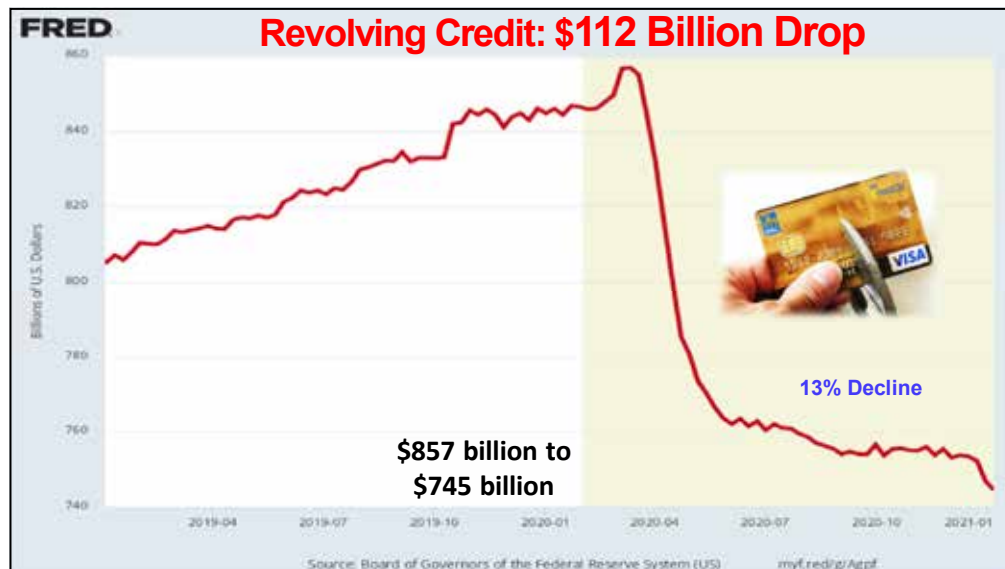
31



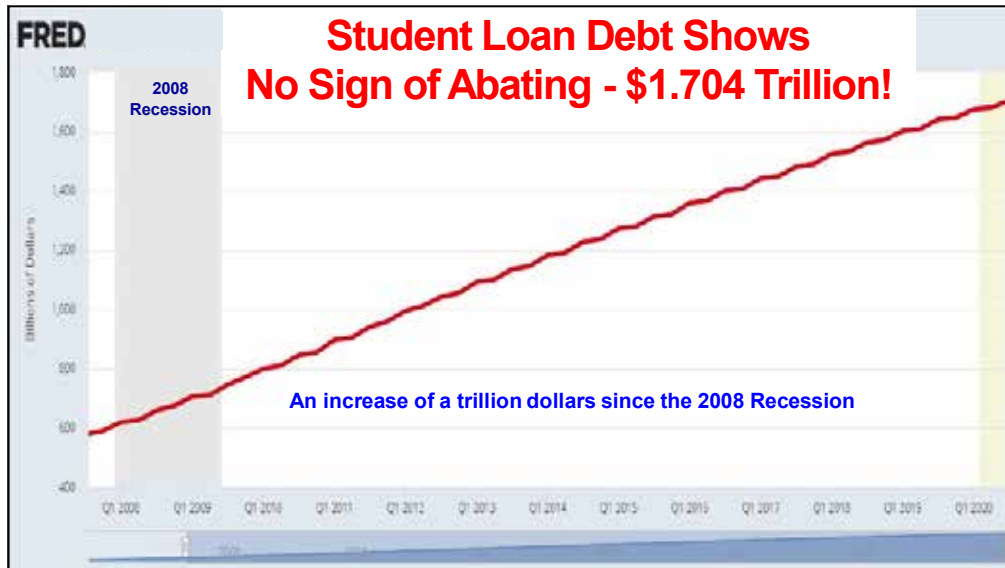
32



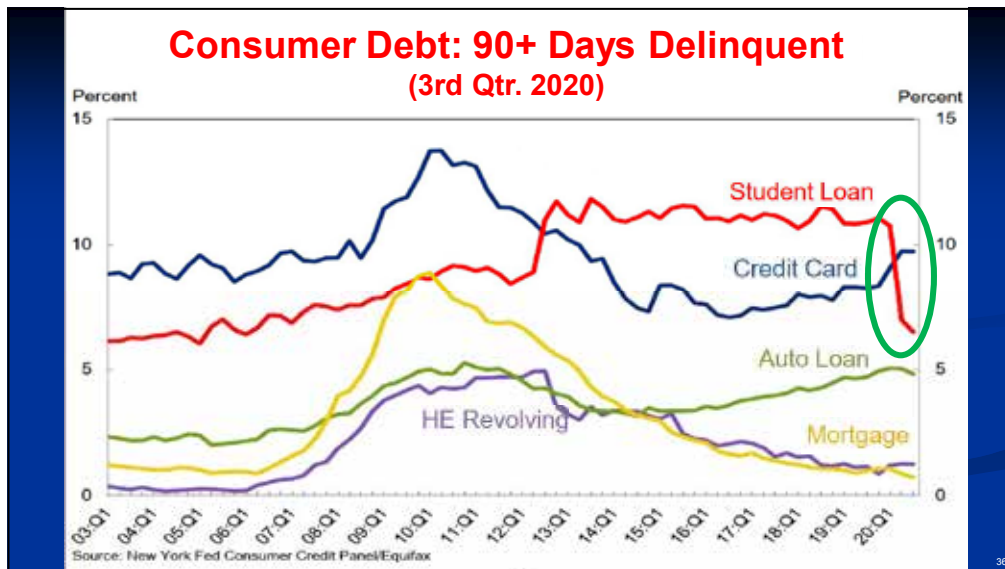
33



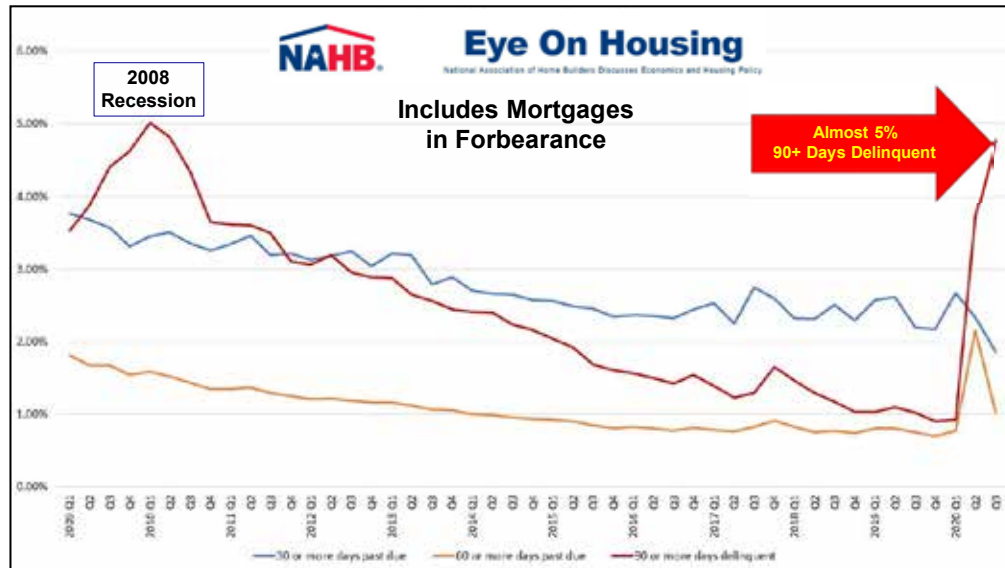
34



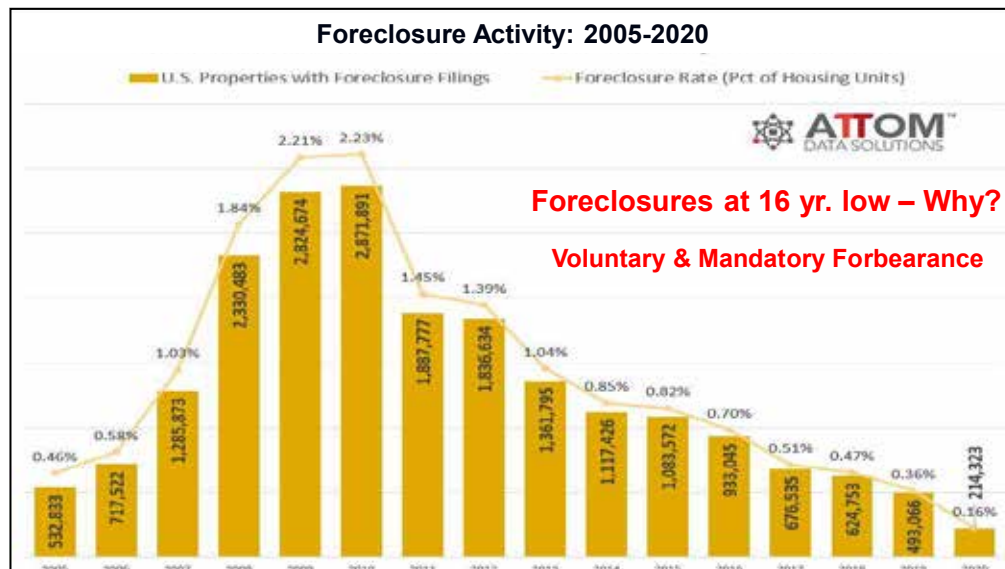
35



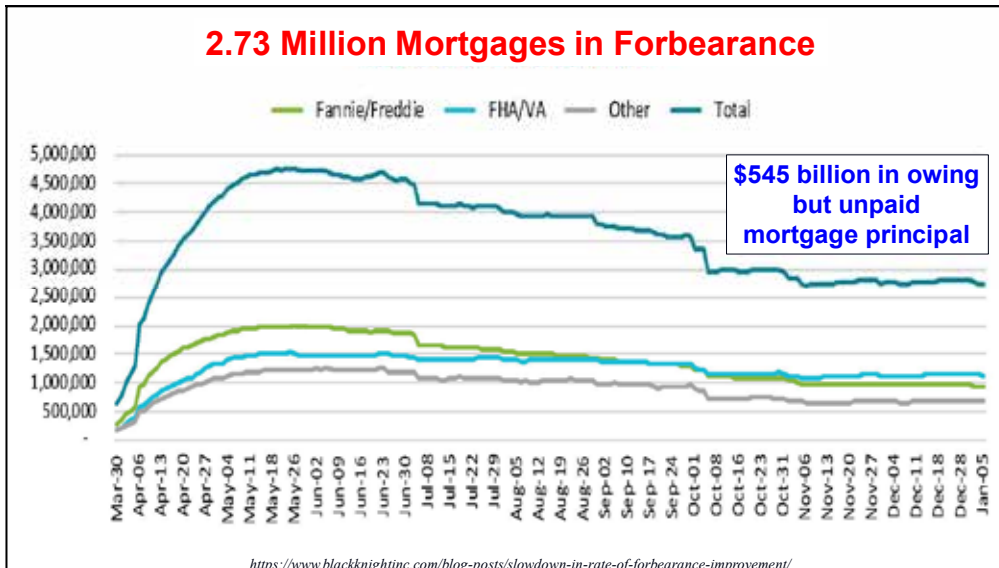
36



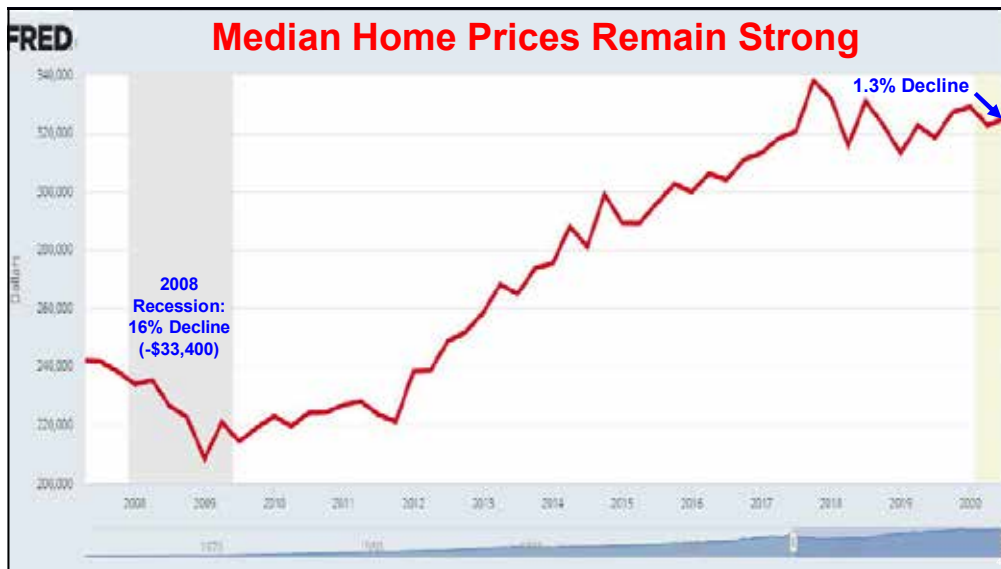
37



38



39



40

Impact on Consumers



41

41

Change in Spending Habits

Shift away from crowd activities (restaurants, movies, air travel, hotels, theater, etc.).



Replaced by home-based or social-distancing activities.

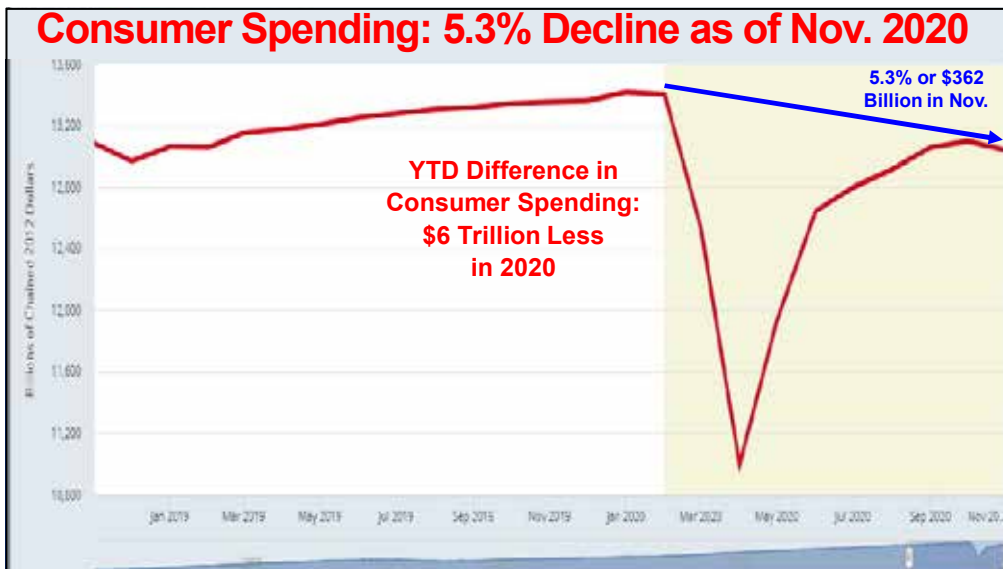


42

42



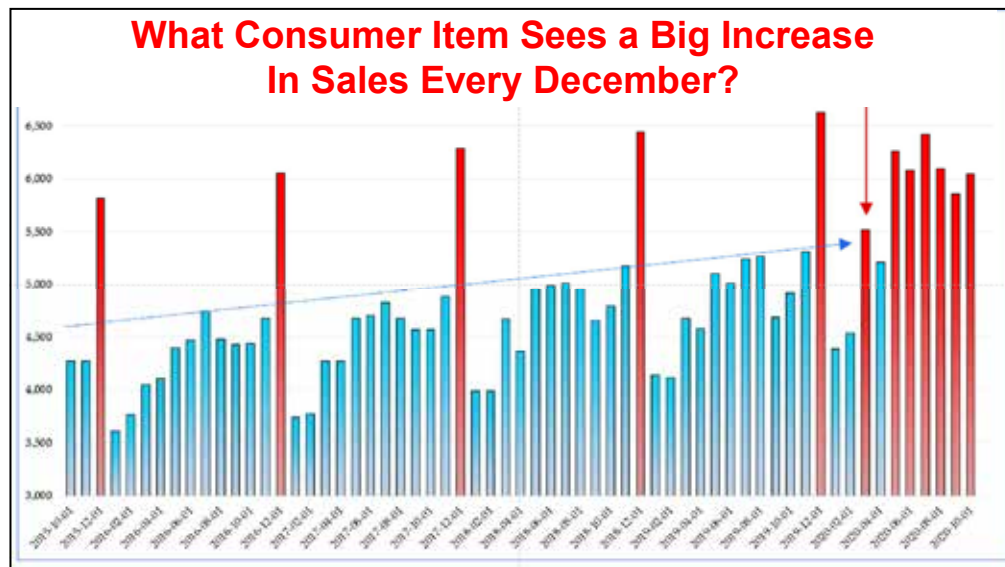
43



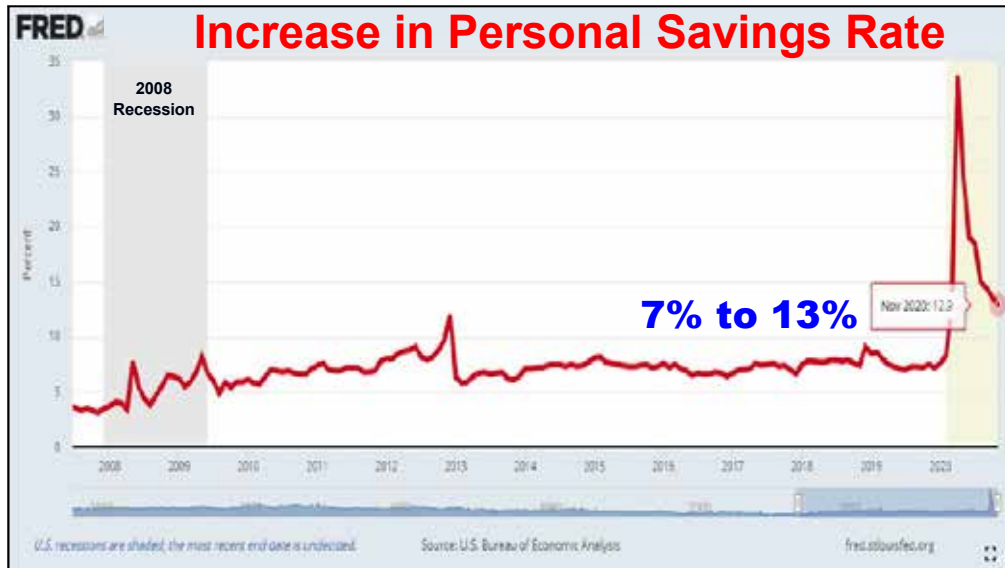
44



45



46



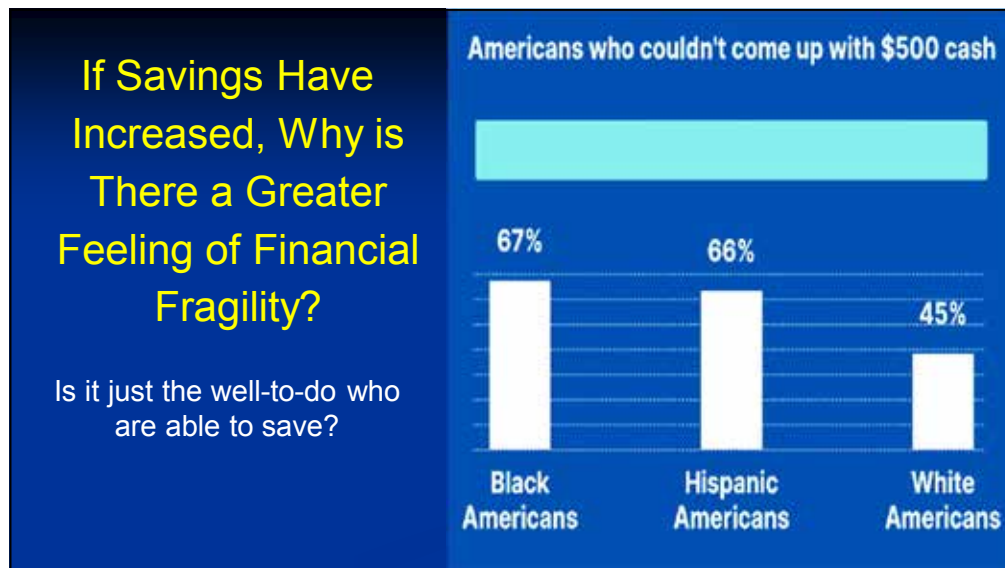
47



48



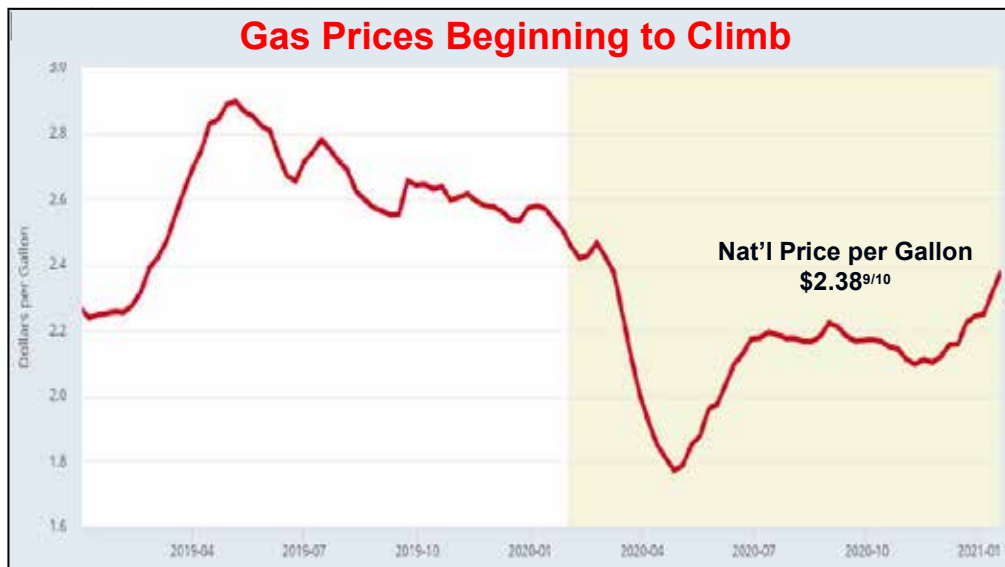
49



50



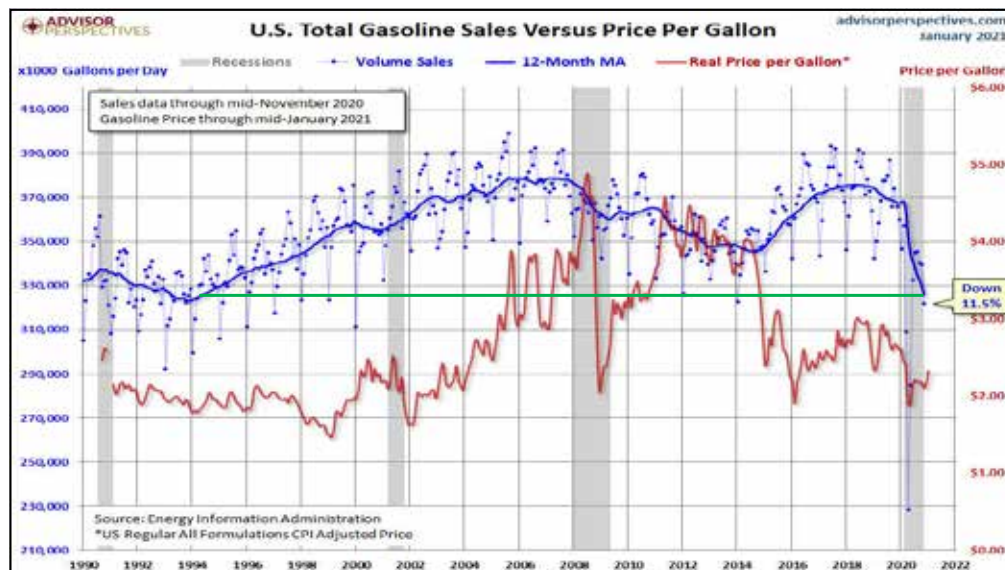
51



52



53



54

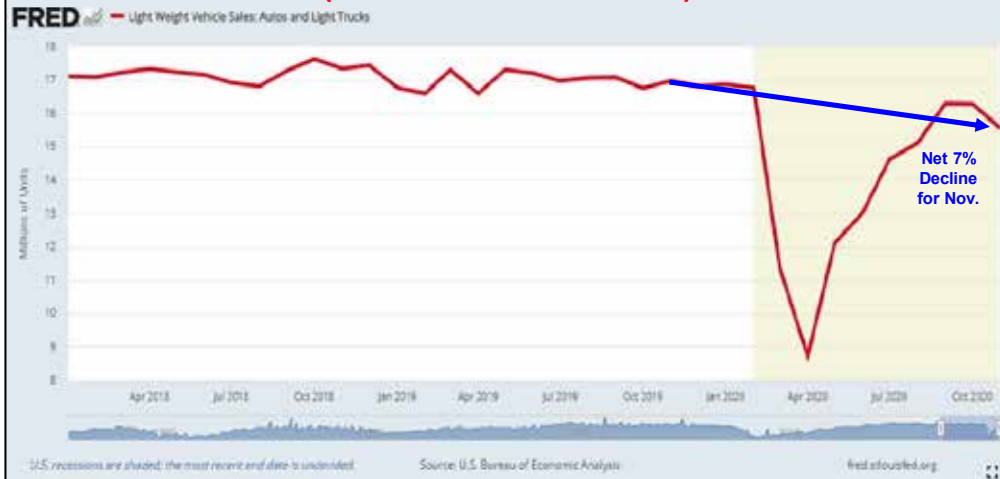
Hard-Hit Sectors of the Economy Tied to Consumer Spending.



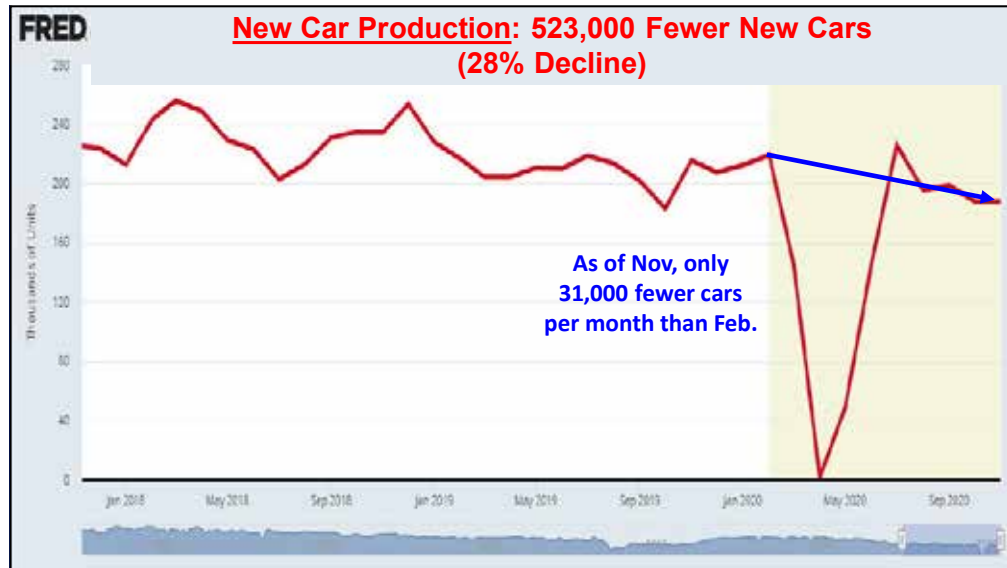
55

55

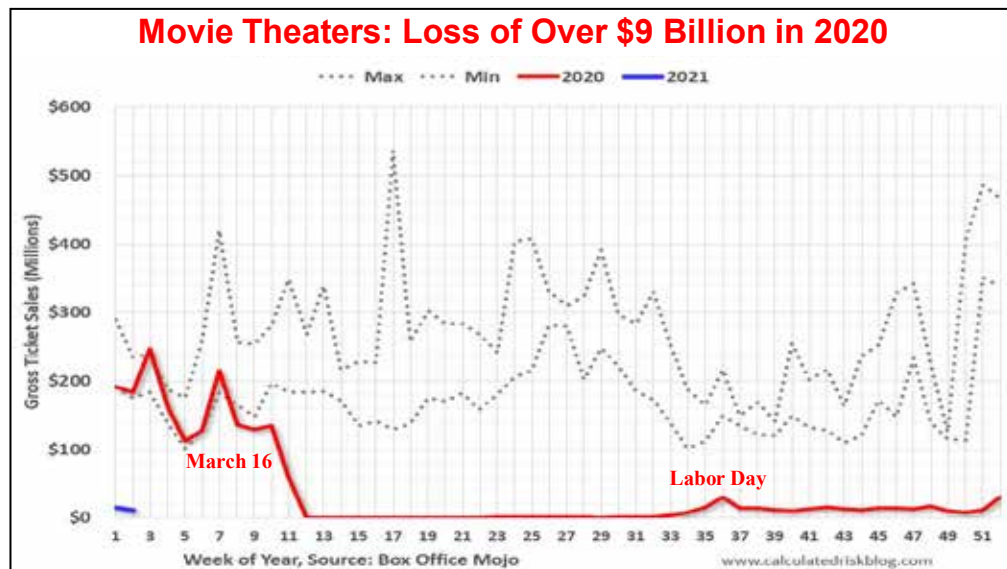
Used & New Car Sales: 30 Million Fewer Car Sales (20% Decline YTD Nov.)



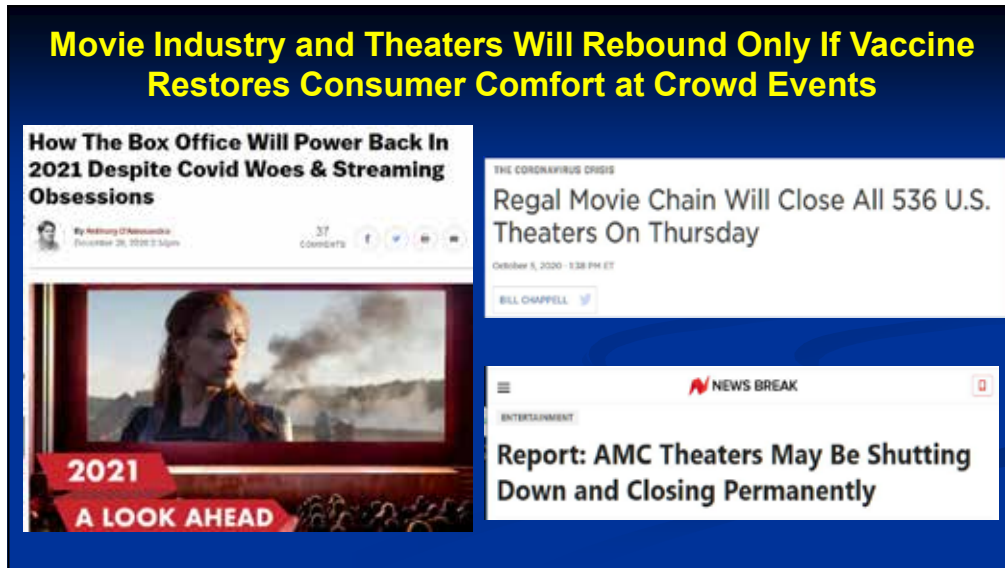
56



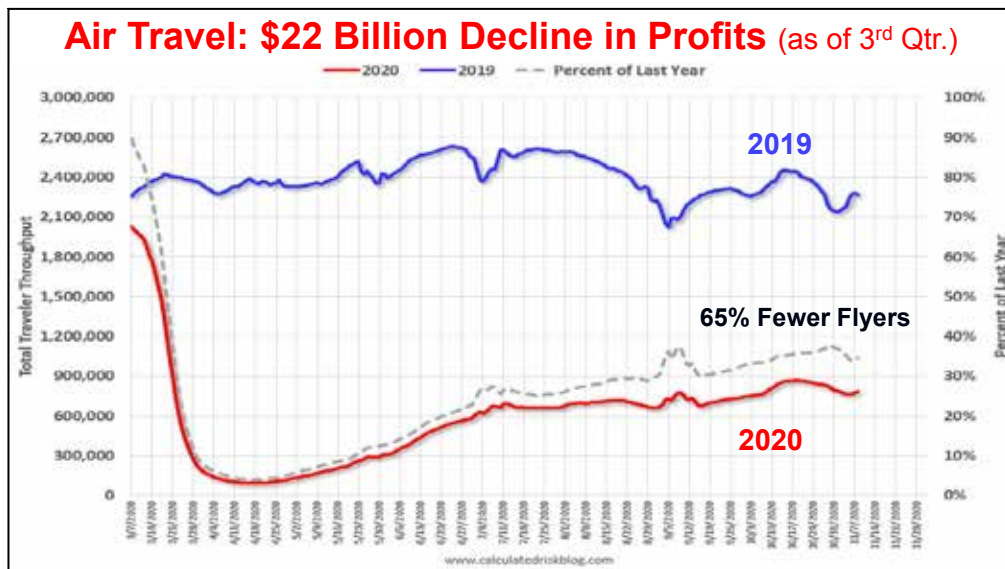
57



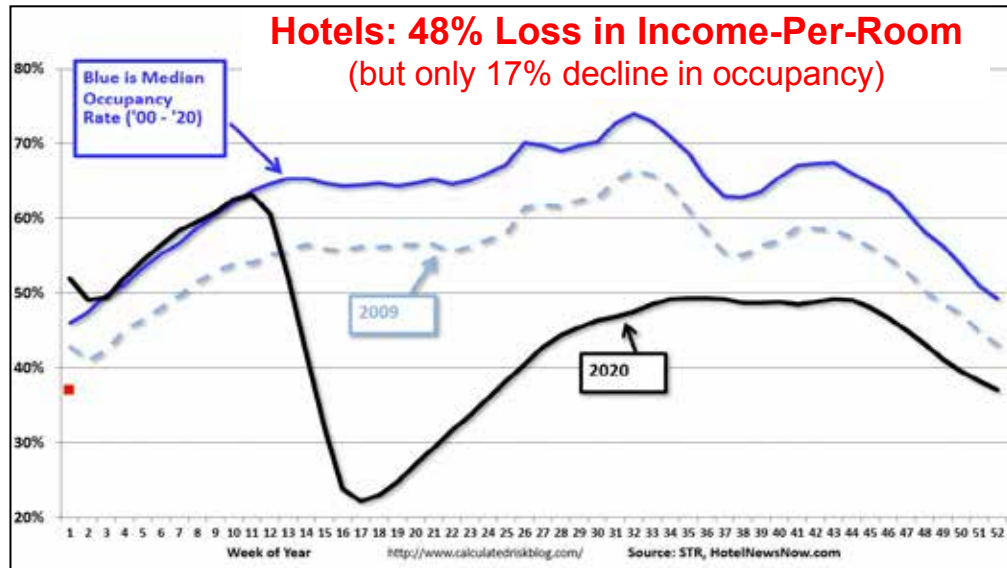
58



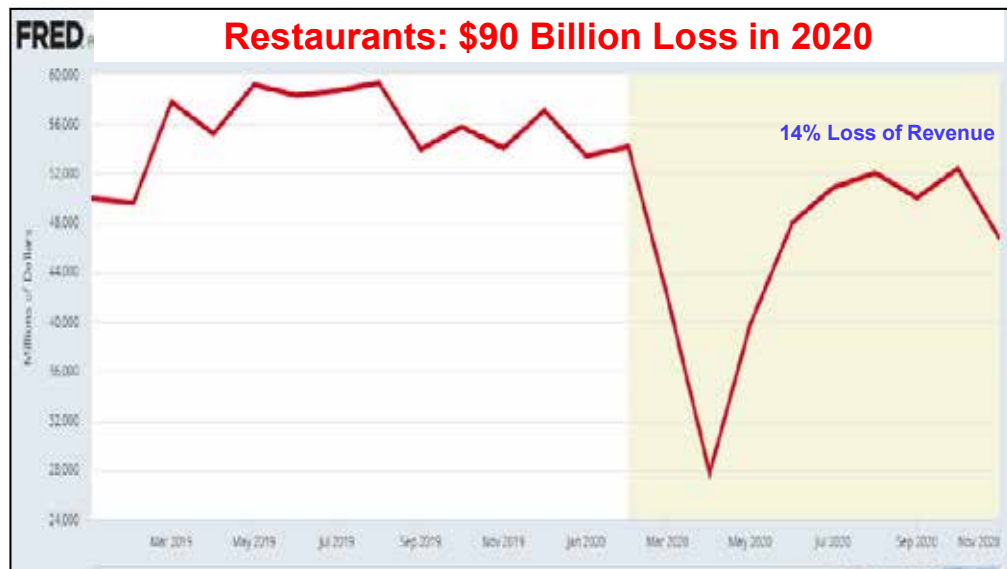
59



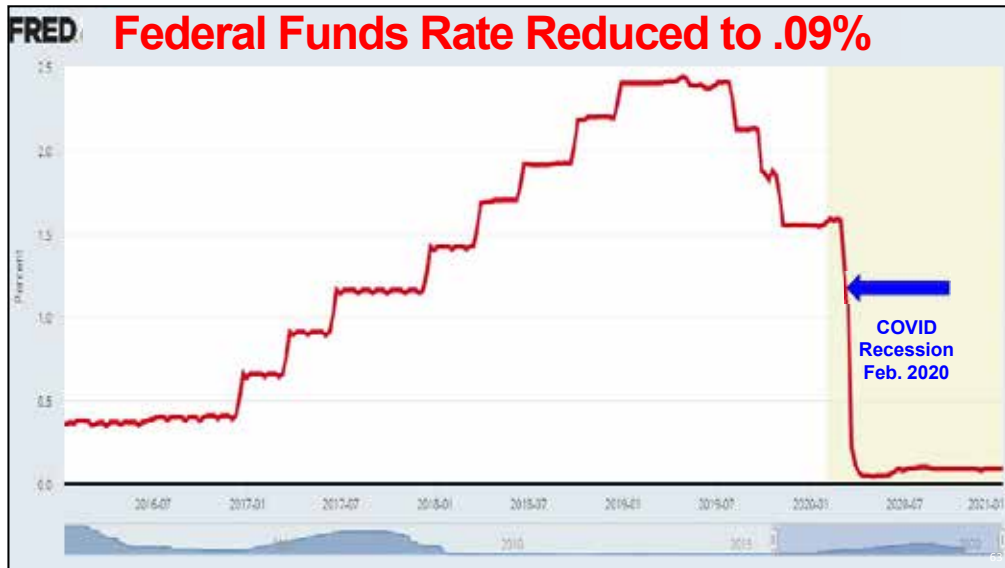
60



61



62



63



64

Impact on Consumer Bankruptcy Filings



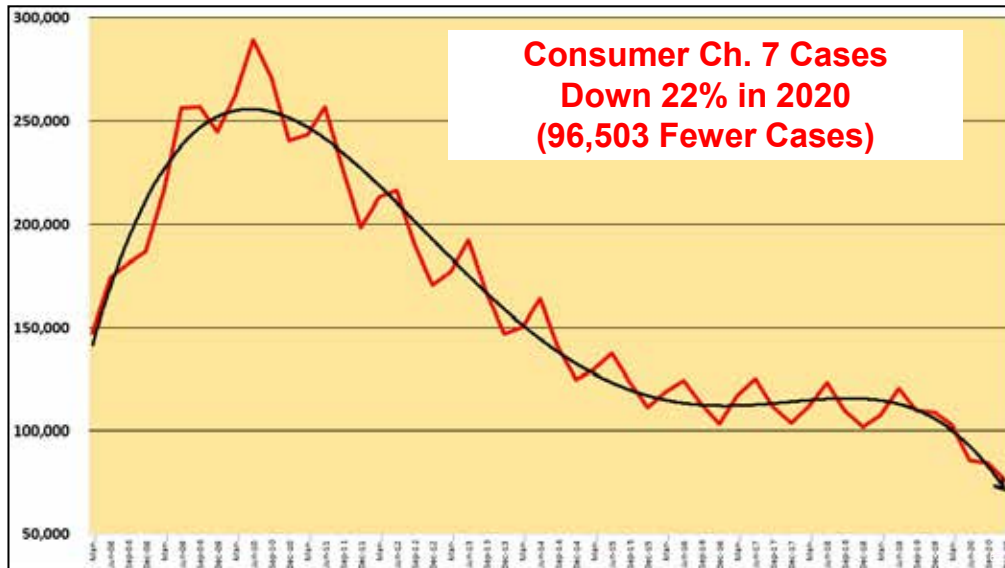
65

65

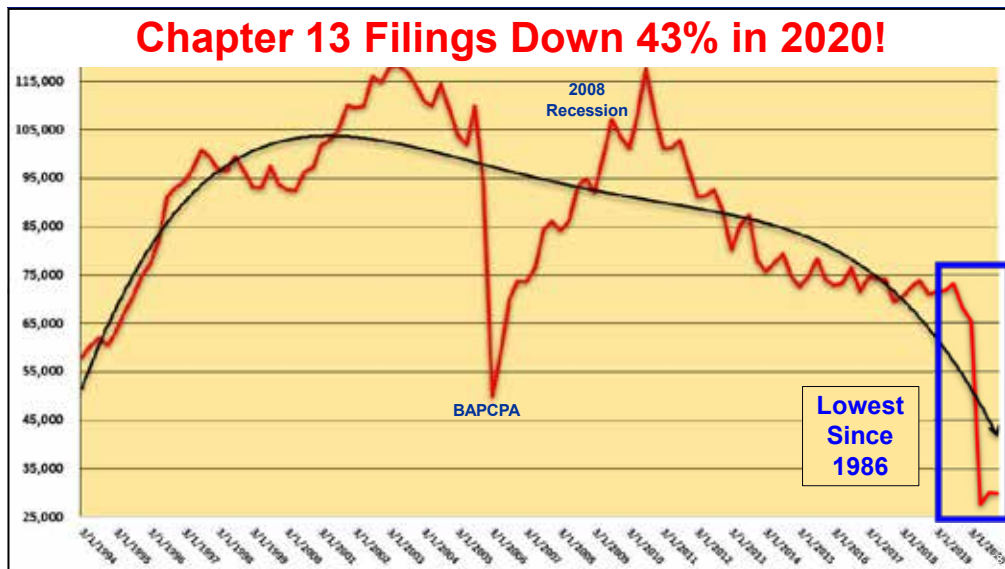
Total Consumer Filings Down 29% in 2020



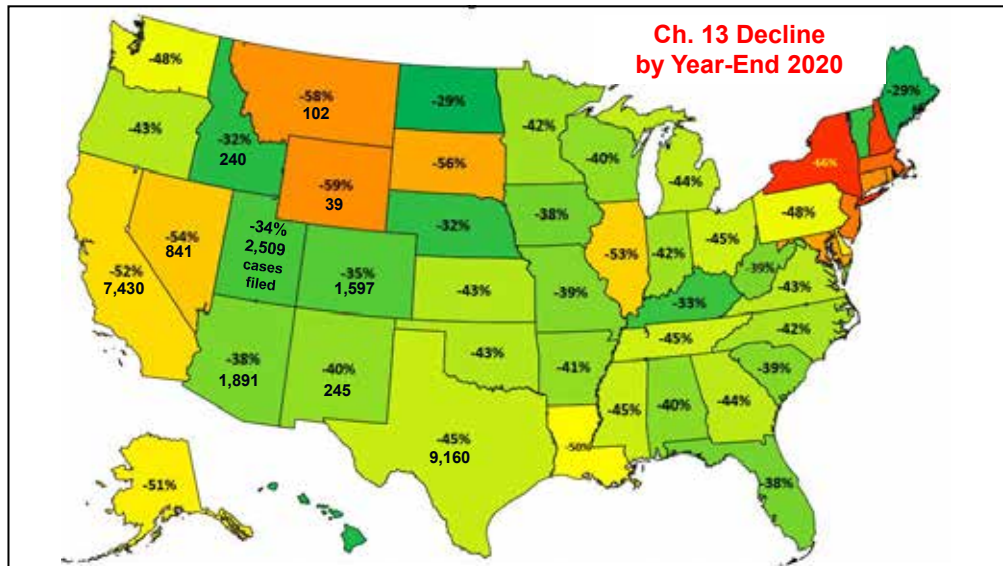
66



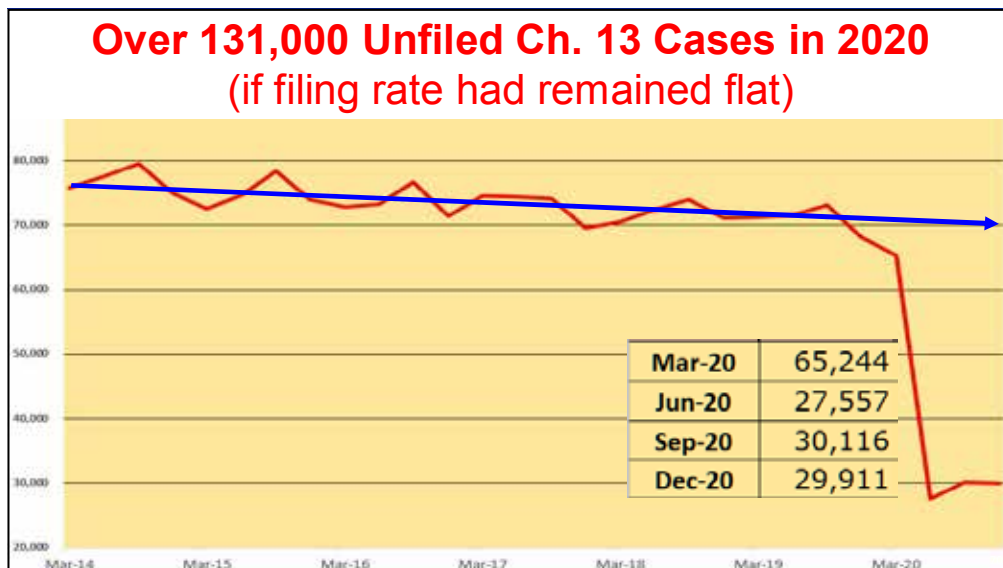
67



68



69



70

Why Decline During a Recession?

1. Consumer debt at record levels.
2. Increased unemployment.
3. Loan delinquencies up (*forbearance is not forgiveness*).
4. Spending down; savings up?
5. Gov't assistance programs (*but they can't last*).
6. Consumer filings require a bankruptcy trigger (*foreclosure, repossession, garnishment*)

71

71

**A Tidal Wave
of Filings?**

Or

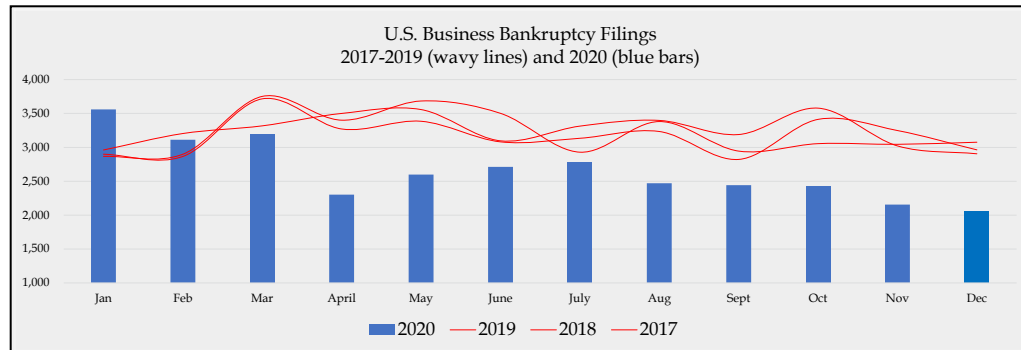
**Just a Rising
Tide**



72

72

THERE'S A PANDEMIC AND A RECESSION.... SO WHERE ARE ALL THE BANKRUPTCIES?



J. Thomas Beckett, Parsons Behle & Latimer

2021 ABI RMBC, January 28, 2021

Data as of January 25, 2021

Key Takeaways

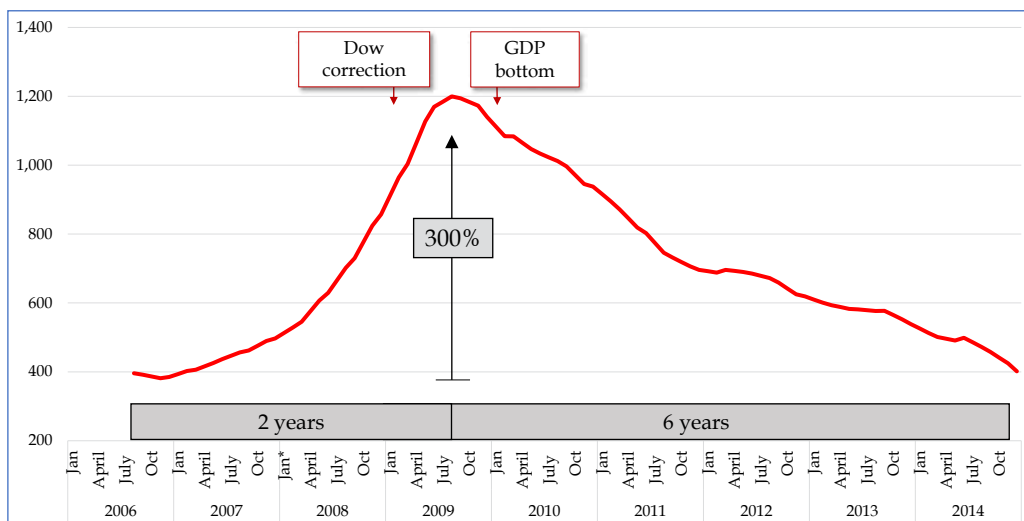
1. This has been a brutal recession.
2. The last recession accelerated bankruptcy filings, but this one decelerated them.
3. Bankruptcy filings are at historic lows, but there will be a wave.

“We’re recovering, but to a different economy.”

- Fed Chair Jerome Powell

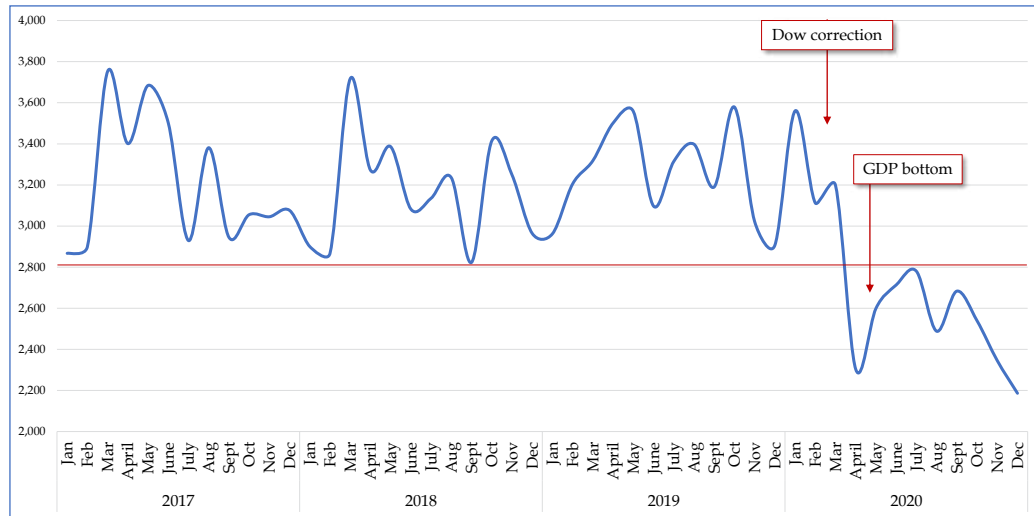
Parsons Behle & Latimer

Chapter 11s in the Great Recession: Acceleration

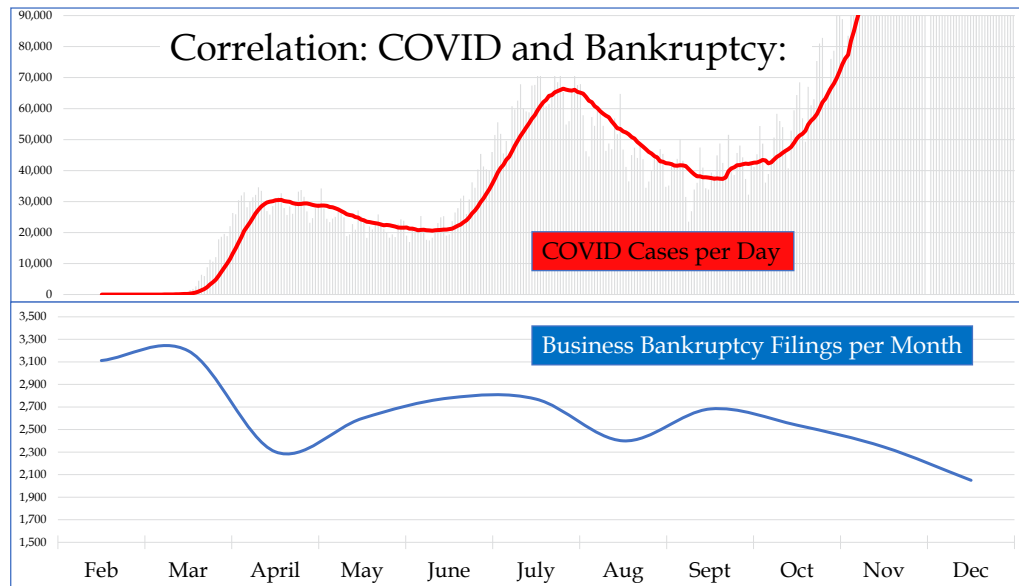


Parsons Behle & Latimer

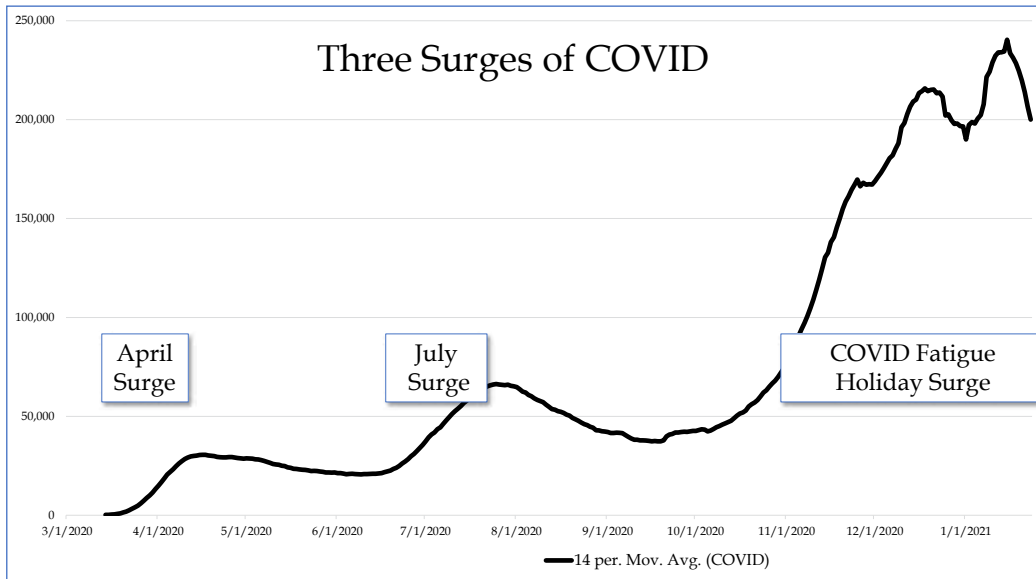
Business Bankruptcies in the Pandemic Recession: Deceleration



Parsons Behle & Latimer

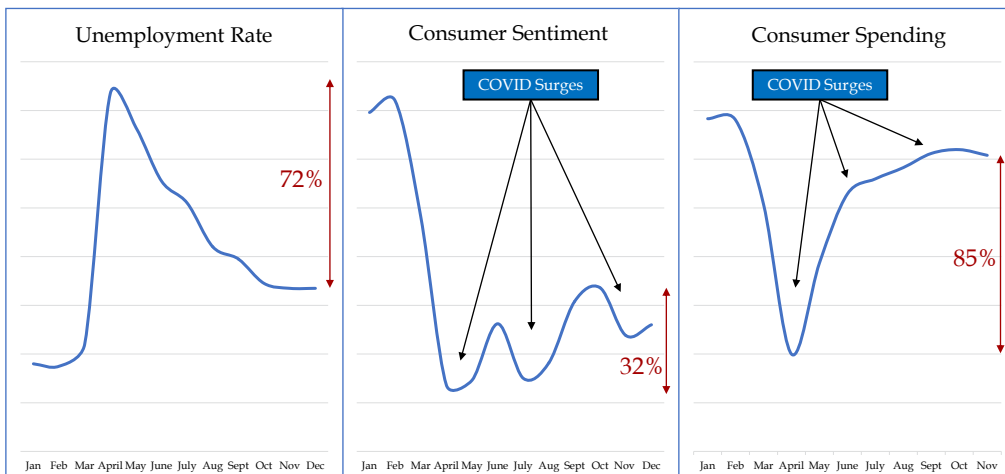


Parsons Behle & Latimer



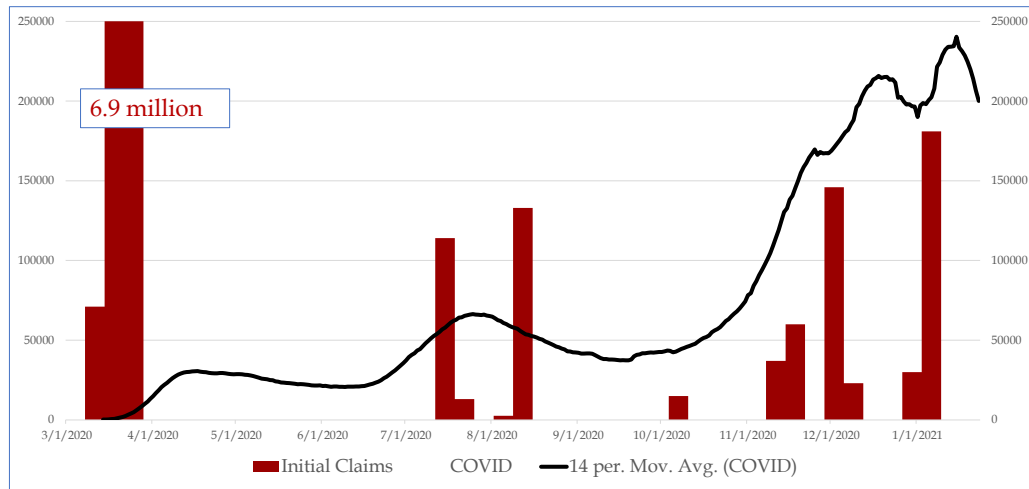
Parsons Behle & Latimer

Correlation: COVID and Consumer Spending (GDP):



Parsons Behle & Latimer

Correlation: COVID and Initial Jobless Claims:

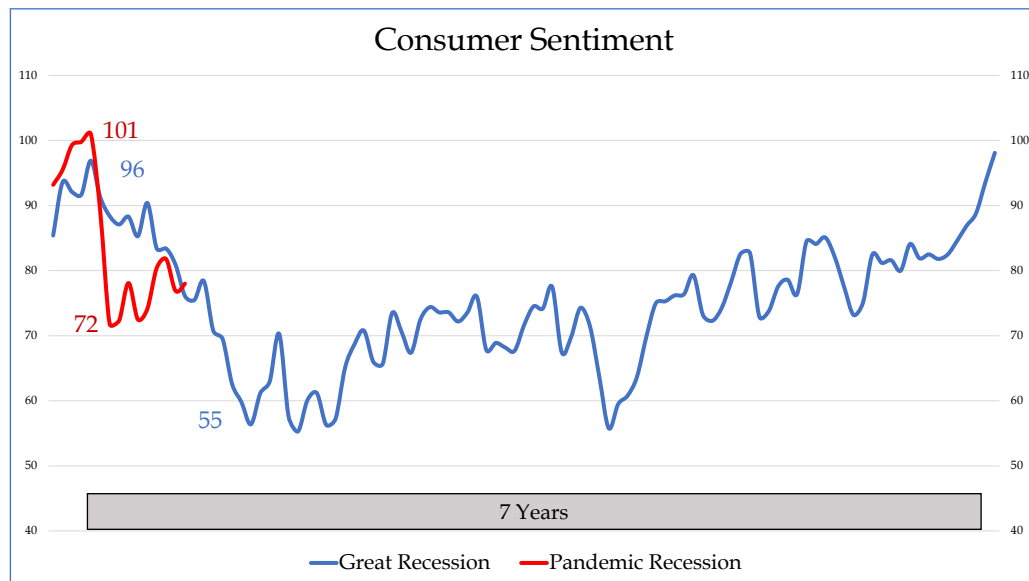


1/25/2021

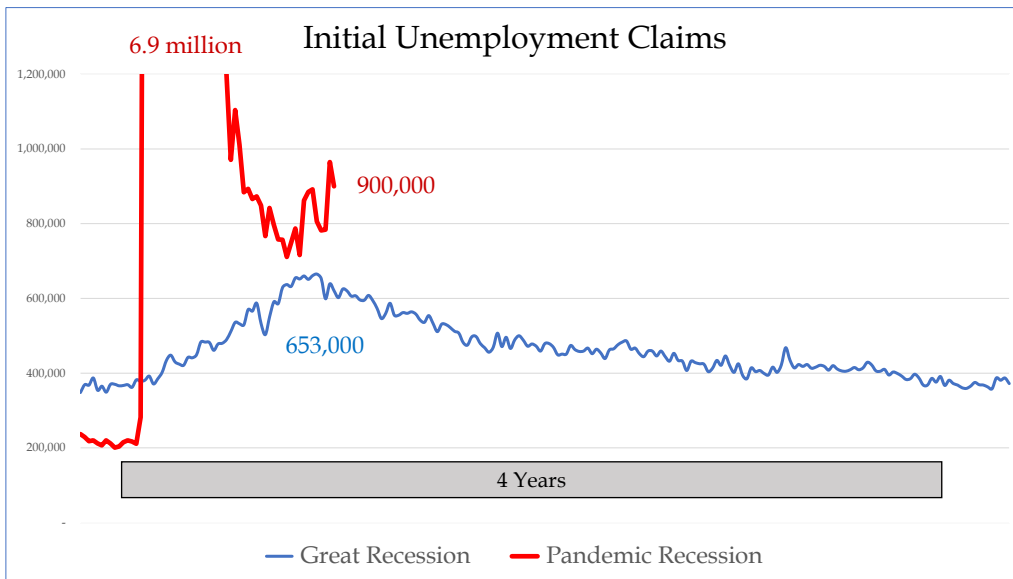
Parsons Behle & Latimer

9

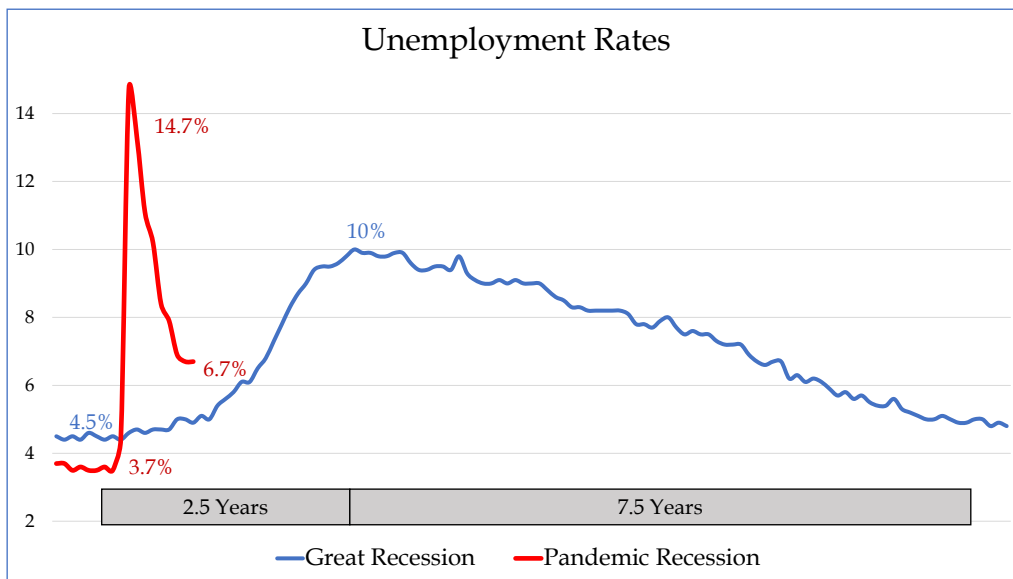
Consumer Sentiment



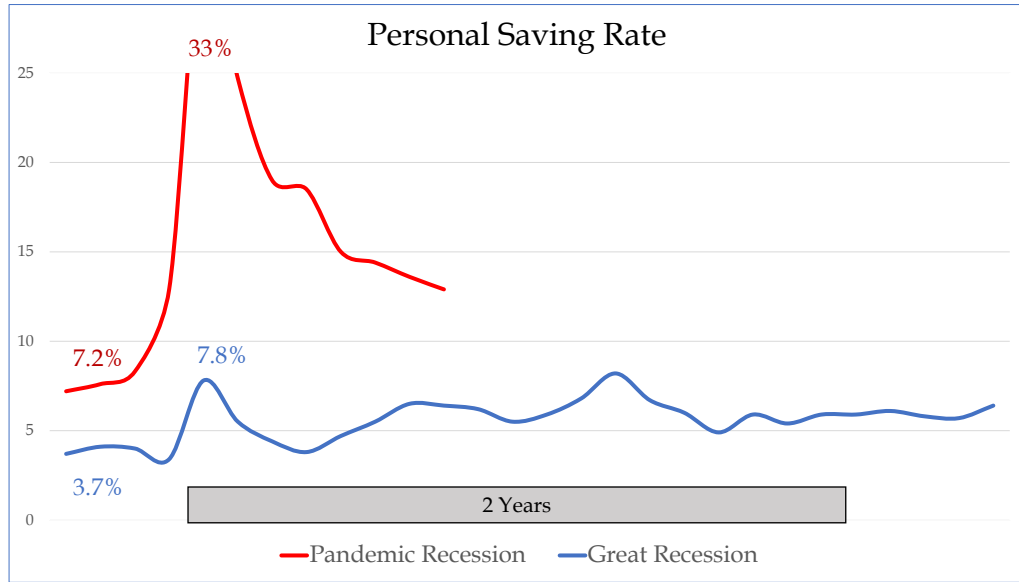
Parsons Behle & Latimer



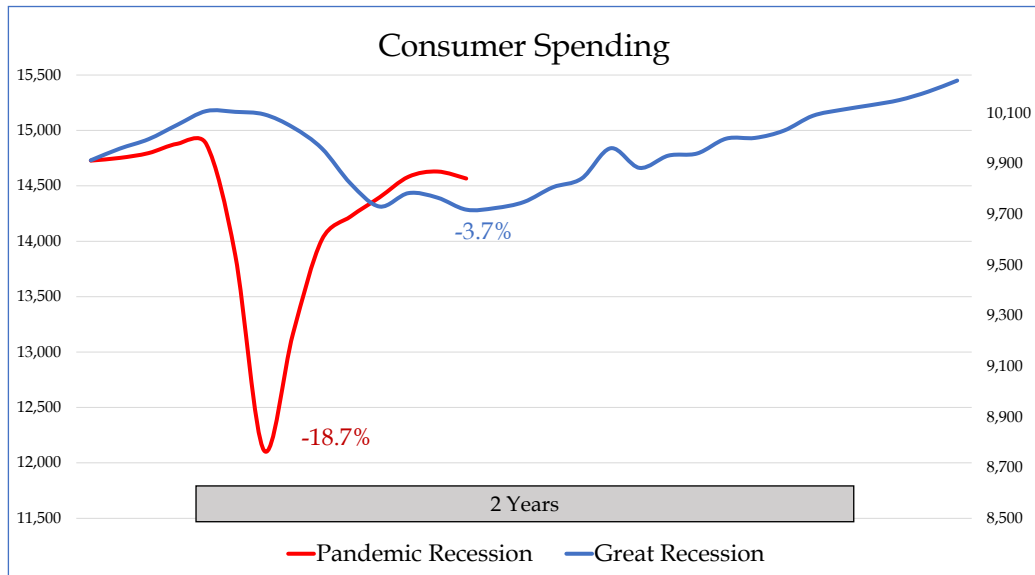
Parsons Behle & Latimer



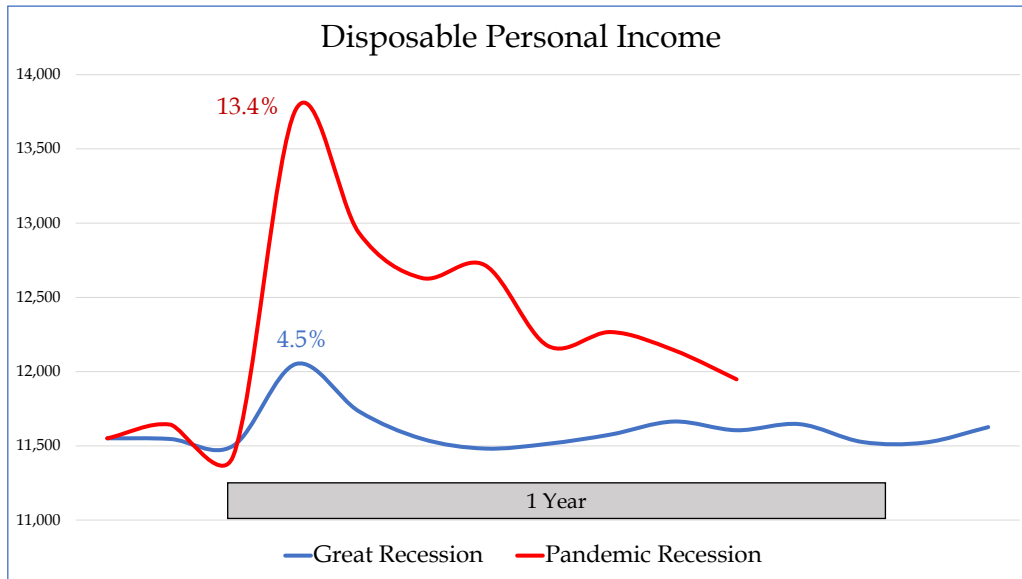
Parsons Behle & Latimer



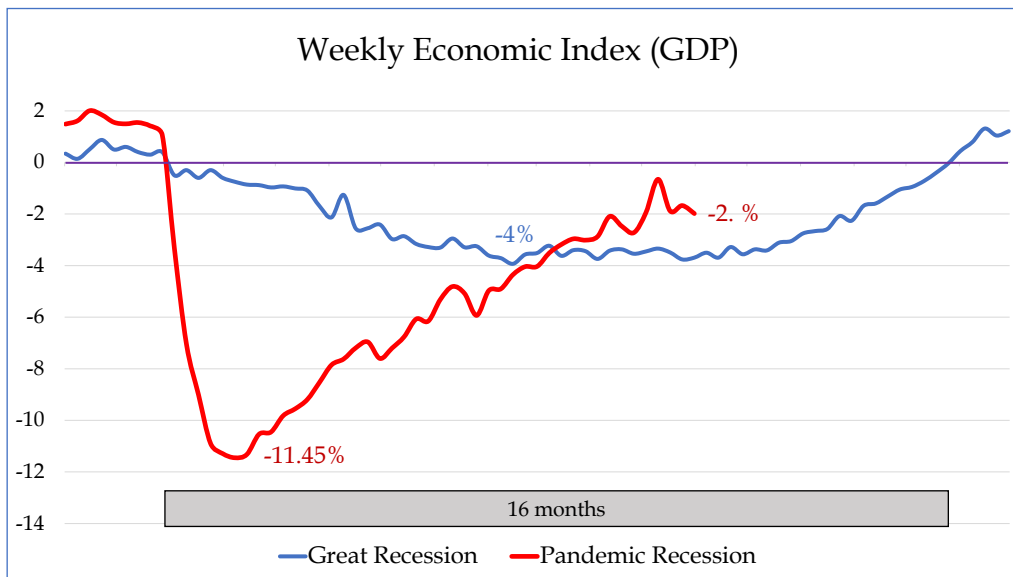
Parsons Behle & Latimer



Parsons Behle & Latimer

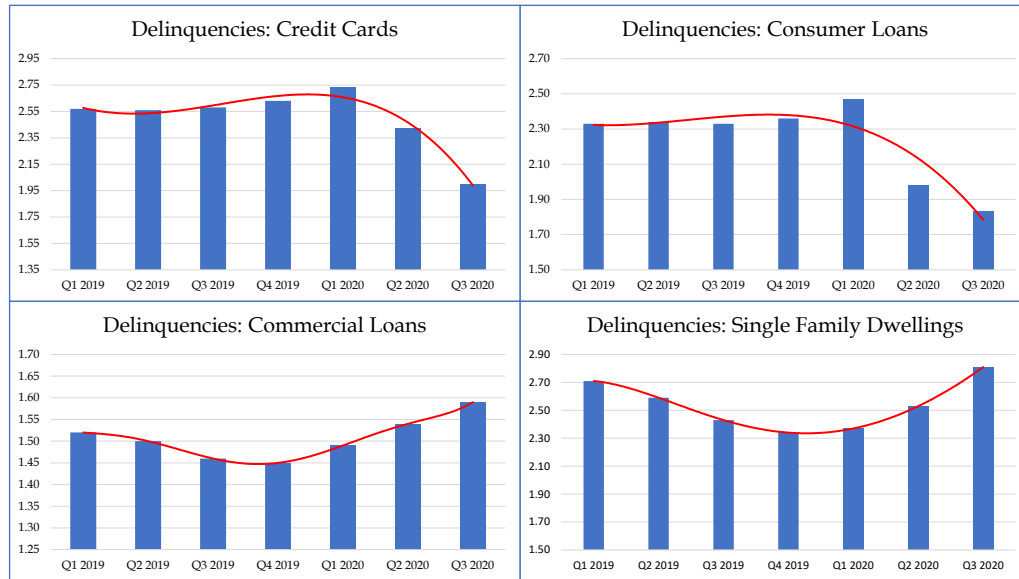


Parsons Behle & Latimer

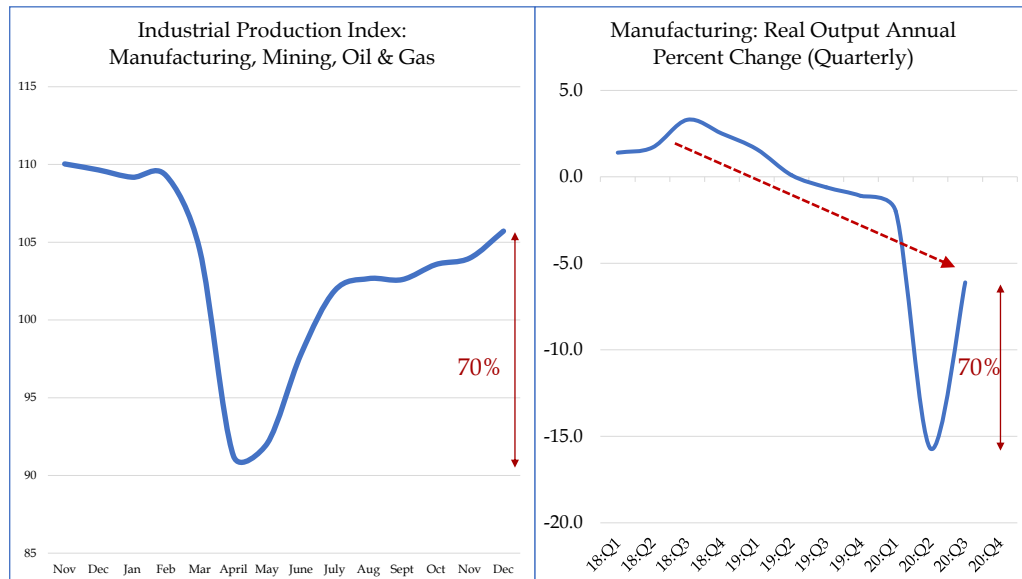


Parsons Behle & Latimer

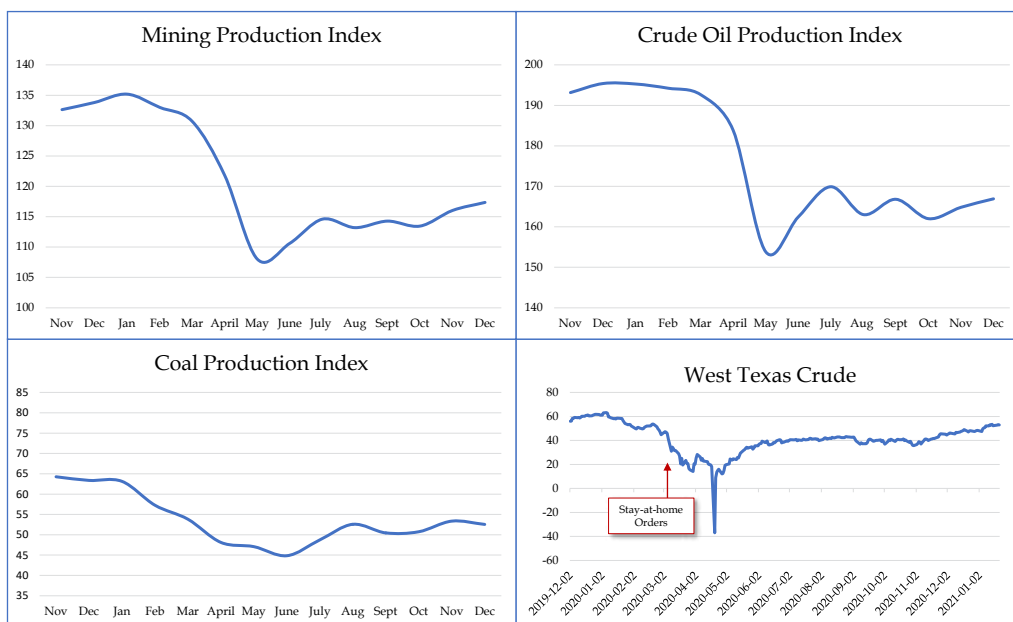
AMERICAN BANKRUPTCY INSTITUTE



Parsons Behle & Latimer



Parsons Behle & Latimer



Parsons Behle & Latimer

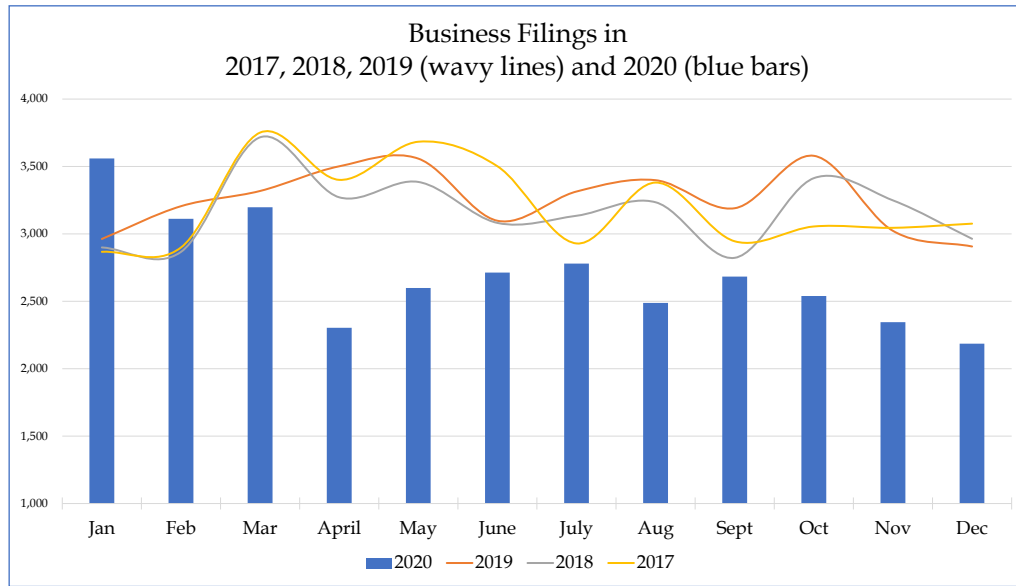
“How did you go bankrupt?” Bill asked.

“Two ways,” Mike said. “Gradually and then suddenly.”

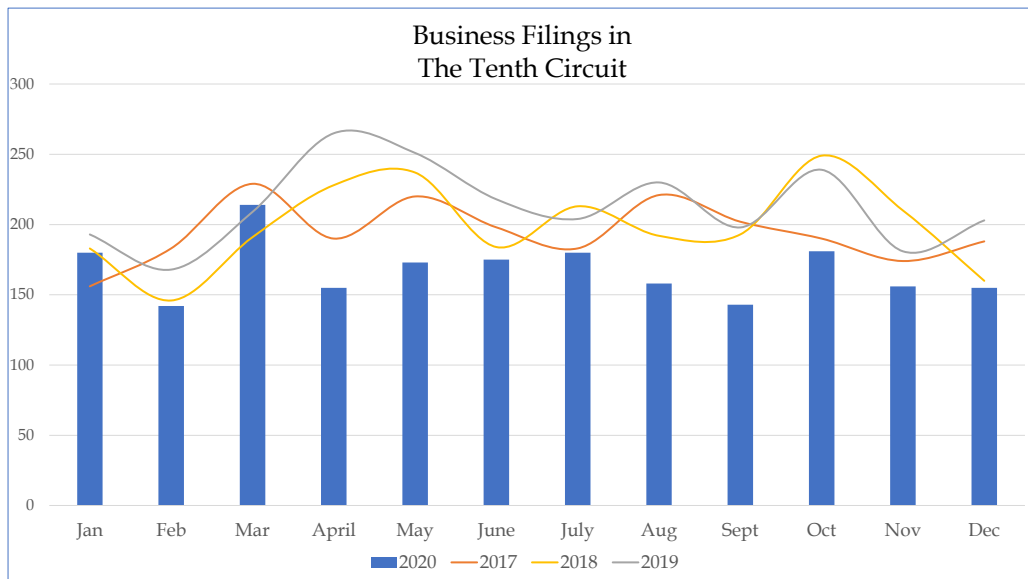
-The Sun Also Rises

Parsons Behle & Latimer

AMERICAN BANKRUPTCY INSTITUTE

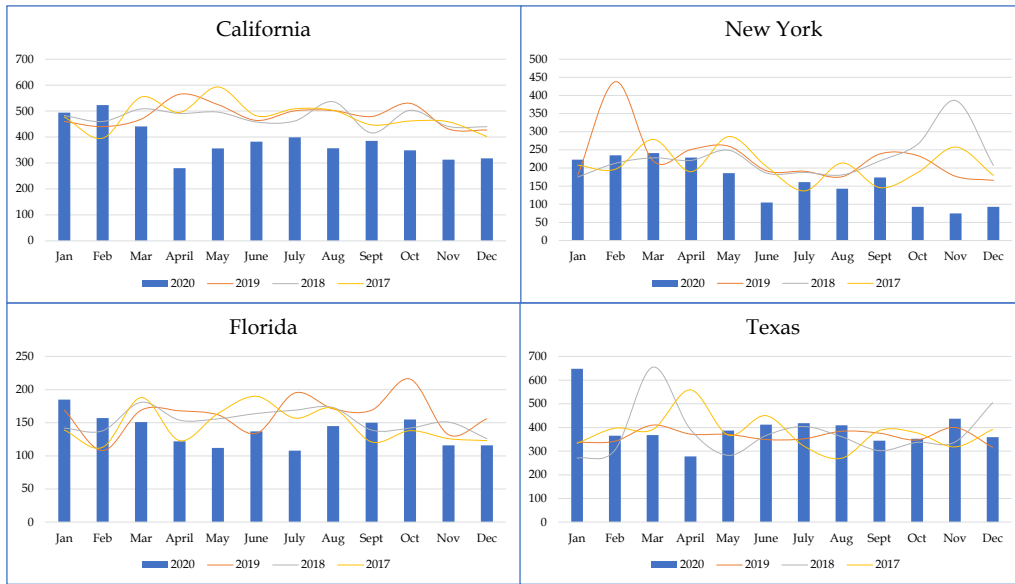


Parsons Behle & Latimer

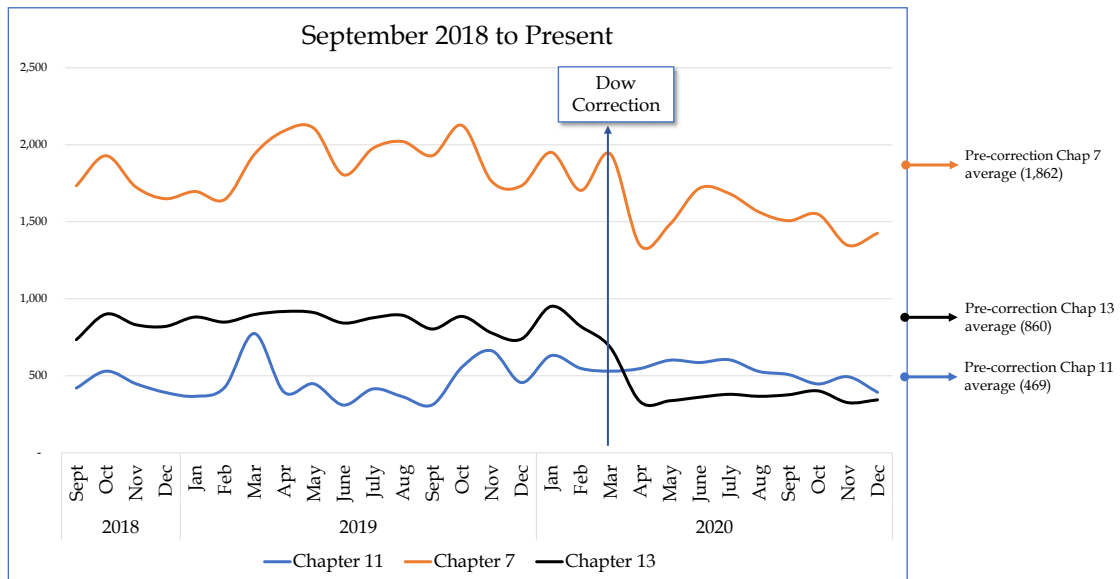


Parsons Behle & Latimer

2021 ROCKY MOUNTAIN BANKRUPTCY VIRTUAL CONFERENCE



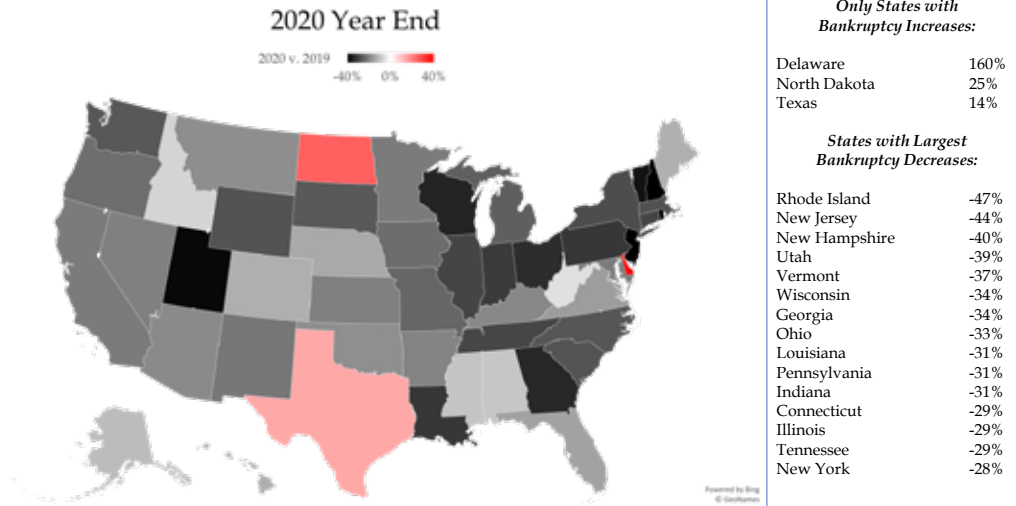
Parsons Behle & Latimer



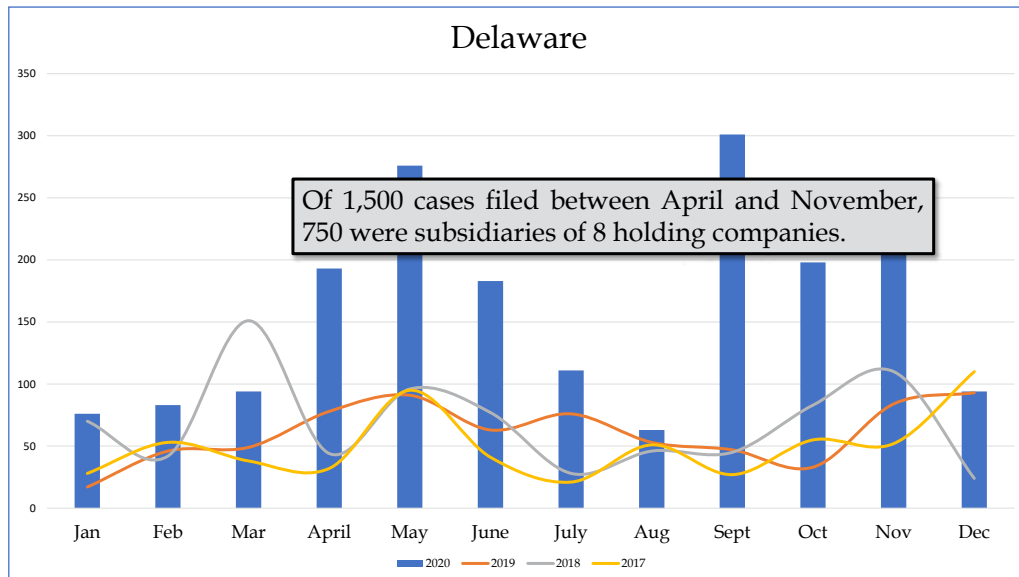
Parsons Behle & Latimer

AMERICAN BANKRUPTCY INSTITUTE

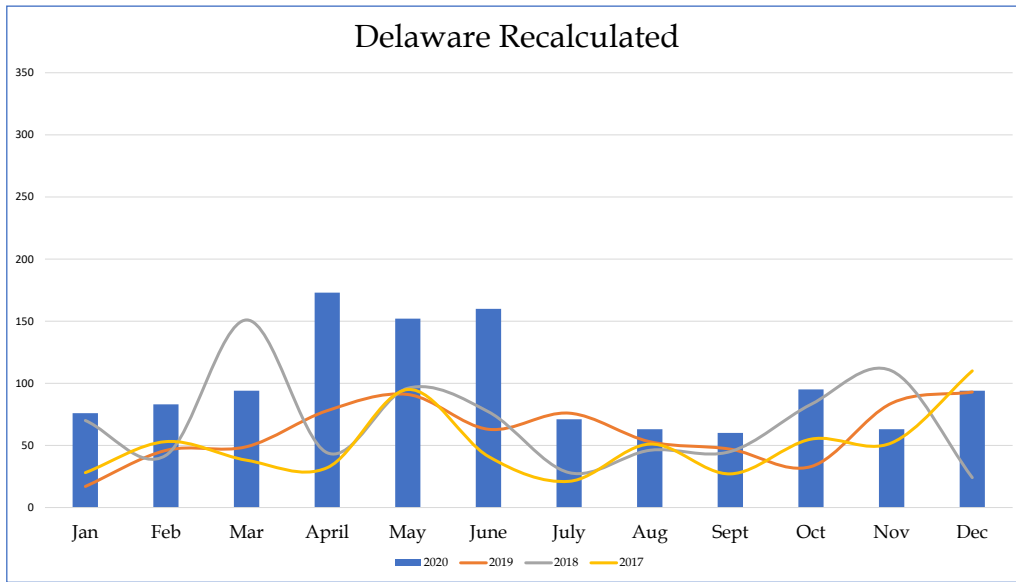
Only *three* states had more business filings in 2020 than in 2019:



Parsons Behle & Latimer



Parsons Behle & Latimer



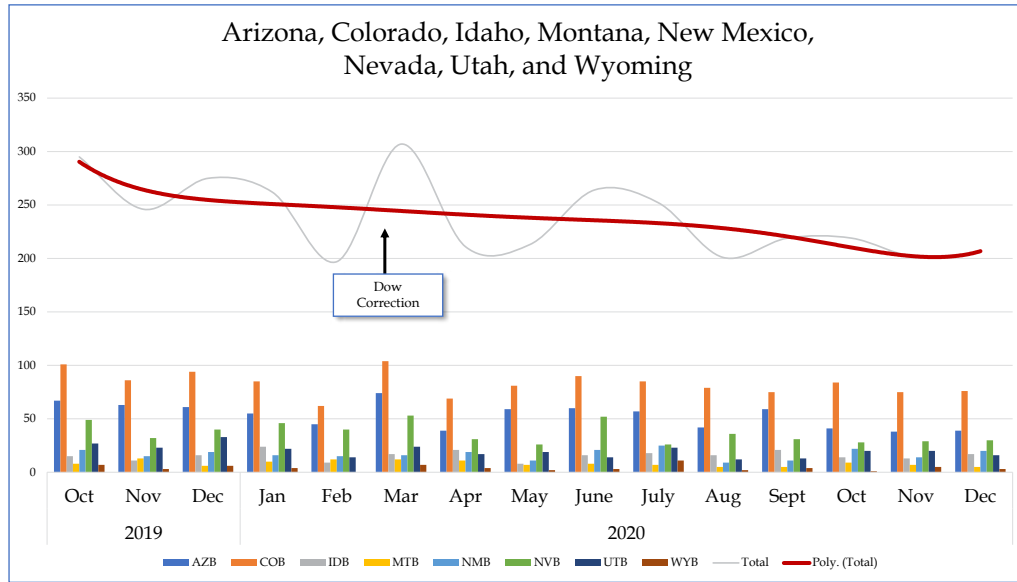
Parsons Behle & Latimer

Headline Bankruptcies

- Ann Taylor
- Avianca
- Brooks Brothers
- California Kitchen
- Centric Brands
- Century 21
- Chesapeake Energy
- Chuck E. Cheese
- Cirque du Soleil
- Diamond Offshore Drilling
- Extraction Oil & Gas
- Food First Global
- Foresight Energy
- Frontier
- GNC
- Gold's Gym
- Hertz
- Hornbeck Offshore
- Intelsat
- J. Crew
- JCPenny
- Latam Air
- Lighthouse Resources
- Lord & Taylor
- LSC Communications
- Lucky Brands
- McDermott
- Mens Warehouse
- Muji
- Muzak
- Neiman Marcus
- NPC International
- Pier 1
- Quorum Health
- Remington Arms
- Ruby Tuesday
- Sizzler Steakhouse
- Stage Stores
- Stein Mart
- Sur La Table
- Unit Corp
- Valaris PLC
- Whiting Petroleum

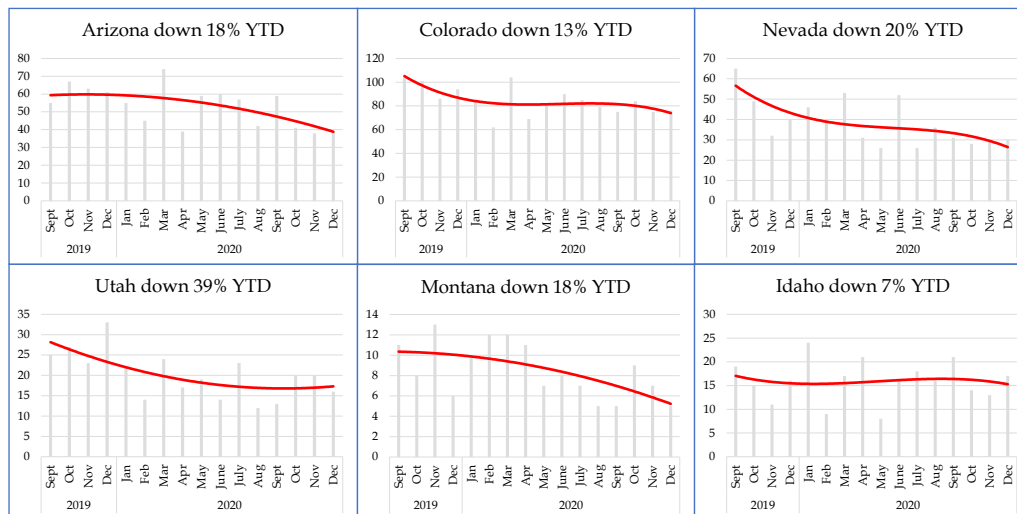


Parsons Behle & Latimer



Parsons Behle & Latimer

2020 vs. 2019



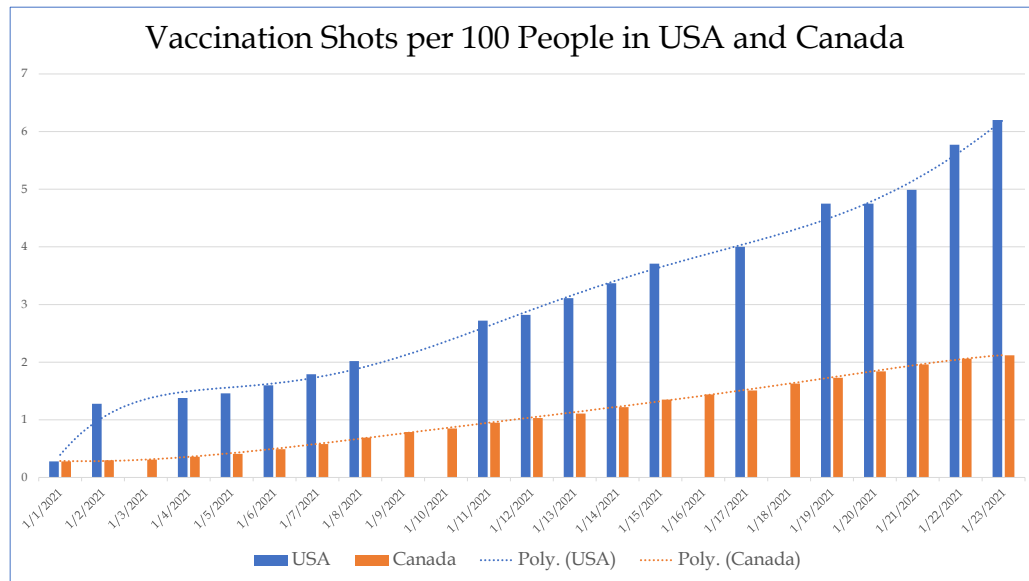
Parsons Behle & Latimer

- Factors that have *decelerated* filings.
 - Stimulus (cash).
 - Forbearances and moratoriums.
 - Chaos, reticence, and uncertainty.

Parsons Behle & Latimer

- Factors that will *accelerate* filings:
 - End of stimulus (cash).
 - End of forbearances and moratoriums.
 - Certainty (that is, vaccines).

Parsons Behle & Latimer

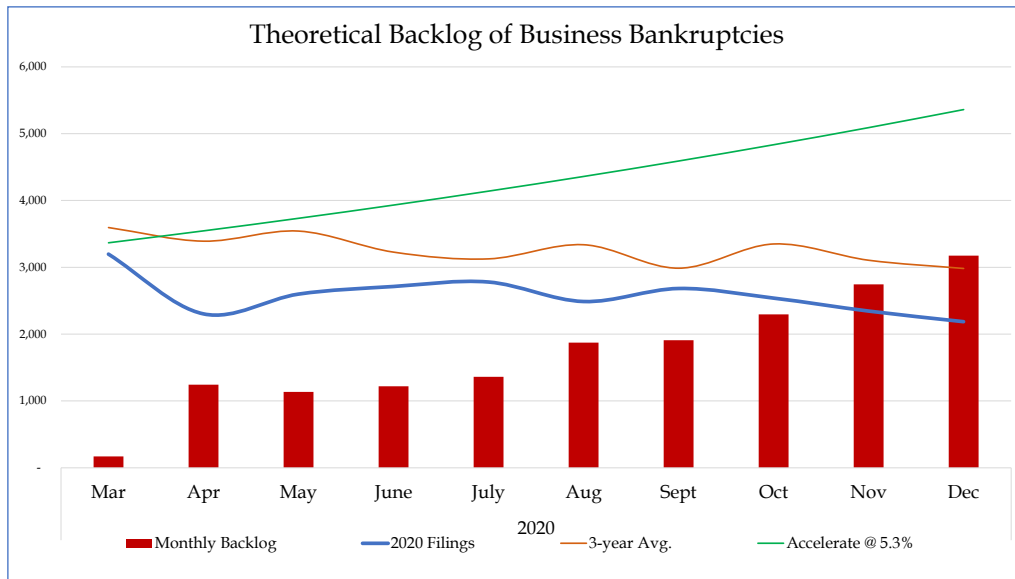


Parsons Behle & Latimer

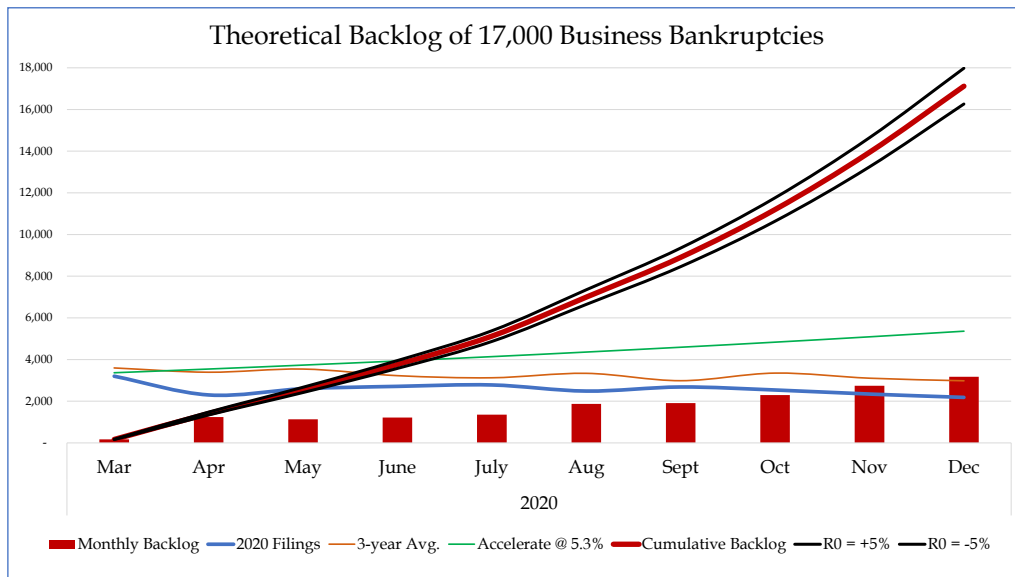
- Is there a big backlog of zombie cases?
 1. Deceleration of filing rates.
 2. Lack of acceleration of filing rates.
 3. R_0 factor (Contagiousness).

Parsons Behle & Latimer

2021 ROCKY MOUNTAIN BANKRUPTCY VIRTUAL CONFERENCE



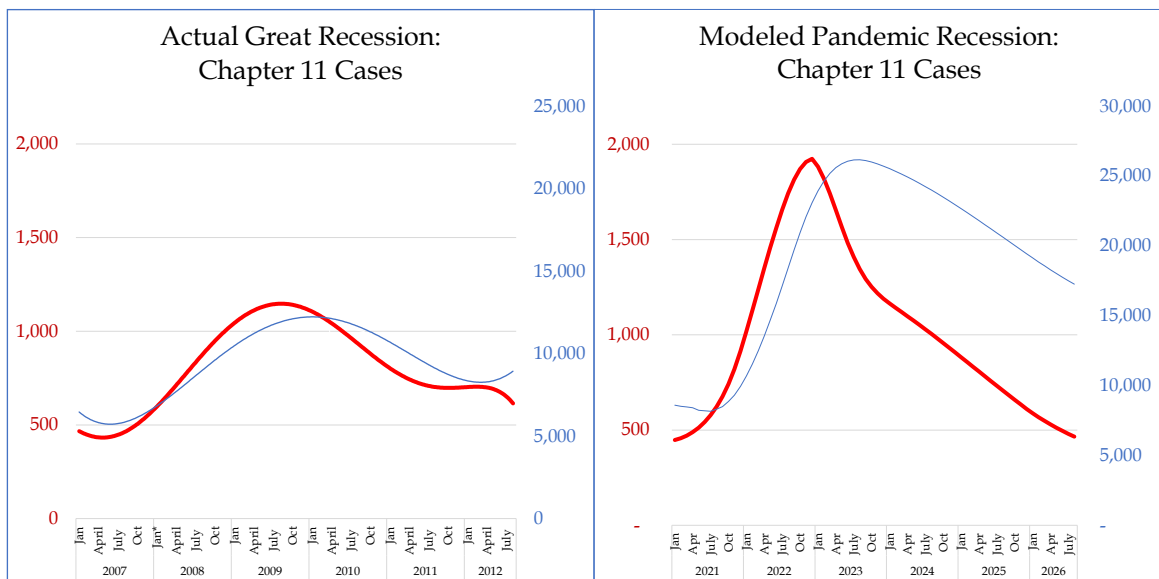
Parsons Behle & Latimer



Parsons Behle & Latimer

- Will there be a big wave of filings?
 - *If* there is a wave,
 - *If* it has the same shape as in the great recession,
 - *If* it starts to form next month, and
 - *If* half the zombies file bankruptcy ...

Parsons Behle & Latimer



Parsons Behle & Latimer

“We’re recovering, but to a different economy.”

[“Our economy has been restructured.”]

Parsons Behle & Latimer

Faculty

Hon. Kevin R. Anderson is a U.S. Bankruptcy Judge for the District of Utah in Salt Lake City, appointed on Sept. 4, 2015. Previously, he served for 17 years as the standing chapter 13 trustee for the District of Utah, administering more than 70,000 chapter 13 cases. Judge Anderson served as president of the National Association of Chapter 13 Trustees (NACCTT), and he also served on several national committees regarding chapter 13 legislation, rules, forms and policy. He has frequently written and presented on chapter 13 issues, including for the *Norton Bankruptcy Law Advisor*, the *ABI Journal*, the *NACCTT Quarterly* and the *NACCTT Academy for Consumer Bankruptcy Education*. He is also a Fellow in the American College of Bankruptcy. Prior to his appointment as chapter 13 trustee, Judge Anderson practiced for 13 years as a commercial litigator with an emphasis on civil fraud, real property, and representing chapter 11 and 7 trustees. He also clerked for Hon. David N. Naugle, U.S. Bankruptcy Judge for the Central District of California. Prior to law school, Judge Anderson worked for two years as a data systems specialist testing military and commercial jet engines for General Electric. He received his J.D. *cum laude* from the J. Ruben Clark Law School at Brigham Young University.

J. Thomas Beckett is a shareholder with Parsons Behle & Latimer in Salt Lake City and heads the firm's bankruptcy practice group. He works in the firm's litigation practice group and practices primarily in commercial litigation. For several years following the Great Recession, Mr. Beckett represented creditors' committees in the bankruptcies of numerous high-end luxury resorts in Utah, Nevada and Montana. Over the length of his career, he has represented a diverse group of clients in chapter 11 bankruptcies: debtors, committees, committee members and committee chairs; trustees and receivers; secured and unsecured creditors; bondholders, equityholders and royaltyholders; asset-acquirers, equipment lessors, Ponzi scheme victims, employees and independent contractors. He has represented clients in all manner of bankruptcy and creditor rights issues, including commercial litigation in state and federal courts, out-of-court workouts, equitable subordination, lift-stays, plan confirmations, secured and unsecured financing, exculpation clauses, case conversion, allegations of bad faith, and alter-ego and nondischargeability. Previously, Mr. Beckett was an associate in the financial workout department of Milbank, Tweed, Hadley & McCloy in New York City. He remains an active member of the New York State Bar Association. Mr. Beckett's work experience includes one year on the staff of the U.S. Senate Judiciary Subcommittee on Constitutional Rights. He recently completed three terms as chairman of the board of directors of Clark Planetarium. He currently serves on the Utah Supreme Court's Ethics and Discipline Committee and has maintained a whitewater river guide's license and wilderness first-responder certification for more than 30 years. Mr. Beckett received his B.A. from Brown University in 1979 and his M.B.A. in finance from New York University Stern School of Business Administration in 1986.