

ENTERED 12/21/07  
FILED  
DEC 20 2007  
CLERK, US BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY DEPUTY

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re  
JEFFREY DEAN SEDERBERG and  
COLLEEN RENE SEDERBERG,  
Debtors.

Bankruptcy No. 07-02065-JM7  
NOTICE OF INTENDED DECISION  
GRANTING UNITED STATES TRUSTEE'S  
MOTION TO DISMISS

The United States Trustee filed a motion to dismiss ("Motion") this case as an either a presumed abuse under 11 U.S.C. § 707(b)(2) or under § 707(b)(3)(B), that the totality of the circumstances of the Debtors' financial situation demonstrates abuse. The Debtors objected and the Court took the Motion under submission after a hearing. For the following reasons, the Court has decided to grant the Motion after further analysis of the Debtors' financial condition as adjusted by post petition changes in the Debtors' circumstances.

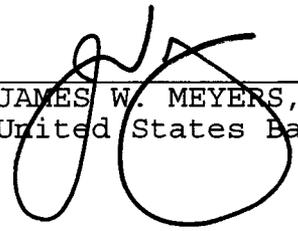
The Motion is granted as an abuse of the provisions of Chapter 7 pursuant to § 707(b)(3)(B). After analyzing the Debtors' schedules and the modifications suggested in the Declaration of Lorraine Green filed on September 17, 2007, the Court is persuaded that the Debtors

1 have the ability to make a sufficiently meaningful distribution to  
2 creditors through a Chapter 13 Plan to render a discharge in Chapter  
3 7 an abuse of the Bankruptcy Code as modified through the Bankruptcy  
4 Abuse Prevention and Consumer Protection Act of 2005.

5 The Motion is not granted as a presumed abuse under § 707(b) (2).  
6 There is an issue concerning the timeliness of the filing of the  
7 statement of presumed abuse under § 704(b) (1) (A) in this case. The  
8 Court need not reach this issue, because even if the statement is  
9 found to be timely, this Court would adopt the holding of my colleague  
10 in the case of In re Maya, 374 B.R. 750 (S.Cal. 2007), and include the  
11 contractual payments due on the house as of the petition date. With  
12 those expenses, this case would not qualify as a presumed abuse.

13 But, given the surrender and foreclosure of the house since the  
14 petition was filed, the changes in automobile expenses, and the  
15 relatively high income of these Debtors, the Court finds that a  
16 Chapter 7 discharge would constitute an abuse of the Bankruptcy Code.  
17 Therefore, unless the Debtors choose to convert this case to one under  
18 Chapter 13 within 14 days from the date of this Decision, the United  
19 States Trustee may submit an order dismissing this Chapter 7 case.

20 DATED: **DEC 20 2007**

  
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JAMES W. MEYERS, JUDGE  
United States Bankruptcy Court

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