

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 05-97204
)
AMY N. AMBROZ,) Chapter 7
)
Debtor.) Judge Arthur I. Harris

ORDER

On February 1, 2006, the debtor, Amy N. Ambroz, filed two reaffirmation agreements with the Court. In one agreement, Ambroz proposes reaffirming \$1,000 in secured debt owed to Dell Financial Services. The debt is secured by computer equipment. The debtor agrees to pay \$50 per month for 20 months at 0 percent interest. In the second agreement, the debtor proposes reaffirming \$1,400 in unsecured debt owed to Discover Financial, Inc. The debtor agrees to pay \$50 per month for 28 months at 0 percent interest.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, extensively revised 11 U.S.C. § 524. These revisions apply to both reaffirmation agreements. Under revised section 524, reaffirmation agreements (1) may be effective regardless whether the Court believes the agreement is in the debtor's best interest, (2) may be effective only with Court approval and/or a hearing before the Court, or (3) may be effective unless the Court disapproves the agreement after notice and a hearing, depending upon the circumstances.

The Court is uncertain whether the first or third scenario applies to these two reaffirmation agreements. Because the debtor's attorney has certified that each agreement "does not impose an undue hardship on the debtor or any dependent of the debtor," and because the debtor has indicated that her monthly income less monthly expenses is less than the scheduled payments on the reaffirmed debt, the Court may not have authority to disapprove the two reaffirmation agreements. On the other hand, the debtor's income and expense figures in Part D of each reaffirmation agreement are inconsistent with the debtor's income and expense figures in Schedules I and J filed in the bankruptcy case and attached to the reaffirmation agreements. The Schedules indicate monthly income of \$2,812 and monthly expenses of \$2,778, leaving a net of only \$34 per month, which is less than the \$100 per month in additional debt to be reaffirmed. If the Court is to rely on the Schedules I and J attached to the agreements, then under 11 U.S.C. § 524(m) the reaffirmation agreements are presumed to be undue hardships on the debtor. Furthermore, 11 U.S.C. § 524(m) allows the Court to disapprove such an agreement, after "notice and a hearing," if the presumption "is not rebutted to the satisfaction of the court."

Accordingly, the Court will give debtor until March 1, 2006, to amend or supplement the reaffirmation agreements. For example, the debtor may choose to rebut the presumption of undue hardship by filing a statement that "includes an

explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such [reaffirmation] agreement.” 11 U.S.C. § 524(m). The debtor is also free to argue that the Court has no authority to disapprove the agreements by virtue of the statements made in Part D of the reaffirmation agreements, notwithstanding the conflicting information contained in the accompanying Schedules I and J. The reaffirmation agreements may be subject to further orders of the Court, once they have been supplemented by the debtor.

IT IS SO ORDERED.

/s/ Arthur I. Harris 2/9/2006
Arthur I. Harris
United States Bankruptcy Judge