

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 VACATING APRIL 3, 2006, MARGINAL ORDER (DOCKET #26)

On April 3, 2006, this Court entered a marginal order (Docket #26) granting the debtor's motion for an evidentiary hearing on three reaffirmation agreements. Upon further review, the Court now believes that no evidentiary hearing is necessary. Based upon the debtor's amended schedule J (Docket #29) and amended Part D's to the three reaffirmation agreements (Docket ## 21, 22 & 23), there is no longer a presumption of undue hardship requiring review by the Court under 11 U.S.C. § 524(m)(1). Therefore, no evidentiary hearing is required, and the Court will not disapprove the three reaffirmation agreements.

Nor does the Court believe that Court approval of the reaffirmation agreements is necessary or appropriate. *See* 11 U.S.C. § 524(k)(7) ("Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney)"); Form B240 (same); *but see* 2005 Advisory Committee Note to Interim Bankruptcy Rule 4004 ("Subdivision (c)(1)(J) has been added to prevent the discharge from being entered until the court approves or disapproves the

reaffirmation agreement in accordance with § 524(m)"). Despite the language in the 2005 Advisory Committee Note, the Court believes that, under 11 U.S.C. § 524(m)(1), if the Court takes no action during the 60 days that a presumption of undue hardship exists, the presumption expires, and no approval by the Court is required for the agreement to become effective.

Accordingly, the Court hereby vacates its April 3, 2006, marginal order (Docket #26), granting the debtor's motion for an evidentiary hearing on the three reaffirmation agreements. The evidentiary hearing previously scheduled for May 2, 2006, is cancelled.

IT IS SO ORDERED.

/s/ Arthur I. Harris 4/28/2006
Arthur I. Harris
United States Bankruptcy Judge