

FILED

Samuel L. Kay, Clerk
United States Bankruptcy Court
Augusta, Georgia
By jpayton at 3:55 pm, Feb 10, 2011

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA
Augusta Division

IN RE:)	Chapter 7 Case
)	Number <u>11-10215</u>
RAYMOND ERIC STABELL, SR.)	
TERESA MARY STABELL)	
)	
Debtors)	
_____)	

**ORDER GRANTING DEBTORS' APPLICATION FOR
WAIVER OF CHAPTER 7 FILING FEE**

Raymond Eric Stabell, Sr. and Teresa Mary Stabell's ("Debtors'") Application for a Waiver of Chapter 7 Filing Fee is granted since food stamps are excluded from the income calculation for the poverty line calculation, and Debtors are unable to pay the filing fee in installments.

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), the bankruptcy court may waive the chapter 7 filing fee for an individual debtor who meets the following two requirements: (1) the debtor's income is less than 150% of the official poverty line income applicable to the debtor's family size; and (2) the debtor must be unable to pay the filing fee in installments. 28 U.S.C. §1930(f)(1).

In the current case, the Debtors satisfy both requirements. Debtors list their family size as three and their

monthly income as \$2,437.00, of which \$277.00 is from food stamps. Noncash government subsidies such as food stamps are excluded from income for purposes of this analysis. "The income for comparison to the poverty guideline is the 'Total Combined Monthly Income' as reported (or as will be reported) on Line 16 of Schedule I. Noncash governmental assistance (such as food stamps or housing subsidies) is not included." See Judicial Conference of the United States Interim Procedures Regarding the Chapter 7 Fee Waiver Provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, available at <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/JCUSinterimProcedures.aspx>; See also In re Lineberry, 344 B.R. 487, 491 (Bankr. W.D. Va. 2006) (deducting food stamps from the debtor's income listed on line 16 of Schedule I); In re Nuttall, 334 B.R. 921, 923 (W.D. Mo. 2005) (same). After deducting the food stamp allotment from the Debtors' income, their monthly income is \$2,160.00. One hundred fifty percent of the official poverty line monthly income applicable to a family of three is \$2,316.25 and therefore the Debtors satisfy the poverty requirement of 28 U.S.C. §1930(f)(1). See 2011 HHS Poverty Guidelines at <http://www.aspe.hhs.gov/poverty/11poverty.shtml>.

A review of the Debtors' bankruptcy schedules reflects

they also are unable to pay the filing fee in installments, thereby satisfying the second part of the analysis.

For these reasons, it is ORDERED that Debtors' Application for Waiver of the Chapter 7 Filing Fee is GRANTED; provided this order is subject to being vacated at a later time if developments in the administration of the bankruptcy case demonstrate that the waiver is unwarranted.



SUSAN D. BARRETT
CHIEF UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia

this 9th Day of February 2011.