



SO ORDERED.

SIGNED this 27 day of July, 2006.


JANICE MILLER KARLIN
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

LYNN NANETTE MUNOZ,

Case No. 06-40168

Chapter 13

Debtor.

ORDER OF DISMISSAL

On **March 22, 2006**, this Court issued an Order to Correct Voluntary Petition in Bankruptcy,¹ because Debtor had failed to file the Employee Income Records required by 11 U.S.C. § 521(a)(B)(iv), or an affidavit that states Debtor is not subject to the statute (and why). The Order to Correct Voluntary Petition gave Debtor and Debtor's Attorney, Michael J. Kelley, until April 6, 2006 to correct the deficiency. The Clerk's office sent emails and placed phone calls to Debtor's attorney verbally requesting documentation as late as April 27, 2006. A review of the file indicates the deficiencies are still outstanding. Further, 11 U.S.C. § 521(i)(1) requires the Court to "automatically" dismiss the case, effective the 45th day, if the

¹Doc. 2.

required information is not filed “within 45 days after the date of the filing of the petition.”

The case has been pending since March 20, 2006, well over 45 days.

As a result of this deficiency, the Court issued an Order for Debtor and her counsel to appear and show cause why this case should not be forthwith dismissed pursuant to 11 U.S.C. § 521(i)(1). Debtor was also required to show cause, in writing, on or before May 18, 2006, why this case should not be forthwith dismissed. If Debtor made such a writing, the Court set a show cause hearing for June 26, 2006. The Court warned that if no written response was timely received, the case would be dismissed, without prejudice and without a hearing. Despite that warning, the Court nevertheless set this to a hearing even though no writing was made.

Neither Debtor nor counsel appeared on June 26, 2006. Out of an abundance of caution, the Court continued the hearing to July 26, 2006. Again, neither appeared. Debtor has not shown cause, in writing or otherwise, why she has failed to file the required copies of her pay advices. Her schedules show that she was employed by Answer Topeka pre-petition, so this is not a case where Debtor is on Social Security, is retired, or the like.

After the expiration of the time limits set forth in 11 U.S.C. § 521(i)(1), the Court is left with no discretion to allow Debtor additional time within which to comply with the requirement for submission of payment advices. “There are no exceptions, no excuses, only dismissal and the consequences that flow therefrom.”² Consequently, the Court must now dismiss Debtor's bankruptcy proceeding, and should have done so on May 5, 2006. In the future, the Court will dismiss a case—without setting it for a hearing---if no timely writing is submitted showing cause (and the only legitimate “cause” will likely be that Debtor did not receive any pay advices within

²*In re Lovato*, 343 B.R. 268, 270 (Bankr. D. N.M. 2006) (citing *In re Ott*, 2006 WL 1152339 (Bankr. D. Colo. 2006)

60 days before the filing of the petition from any employer).

IT IS, THEREFORE, ORDERED, that Debtor's bankruptcy proceeding is now dismissed.

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