

JUL 20 2006

U.S. BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

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

In re:)	Chapter 13
JOSEPH J. SKAJA,)	No. 4:04-bk-06032-JMM
Debtor.)	MEMORANDUM DECISION
)	(Supplementing Oral Rulings Made
)	in Open Court. Pursuant to Bankr. R. 7052)
)	(Opinion to Post)

At the conclusion of a confirmation hearing held on July 18 - 19, 2006, this court indicated that it would dismiss the case *sua sponte*. This decision is supported by 11 U.S.C. §§ 105(a) and 1307(c)(5) and (c)(1). The Debtor has caused his few creditors to suffer undue delay in this case. The case has been pending since December 2, 2004, a period of 19 months; and two plans have been proposed, both of which are speculative in nature and therefore unconfirmable as not being feasible, 11 U.S.C. § 1325(a)(6). The Debtor is currently unemployed and has no existing consulting agreements; his expenses of over \$4,000 per month (Schedule J) clearly exceed his and his wife's monthly income by double; the Debtor has been delinquent in his promised monthly payments to the Trustee; and the source of future significant lump-sum payments are all intended to come from a privately-held corporation, which has never had a loss-free fiscal year, and is admittedly insolvent.

1 The Debtor has proposed two plans over the last 19 months, abandoned the first and
2 amended it only when it became apparent that the promises made therein were unrealistic.

3 The primary impetus for this filing (and a previous one) are the ongoing collection
4 and contempt actions by Mr. Skaja's ex-wife, Mary Liesenfeld, fka Mary Skaja, in the Texas
5 domestic relations court. The debt to Ms. Liesenfeld, and the attorneys' fee obligations associated
6 therewith, have been adjudicated to be non-dischargeable obligations in the Debtor's chapter 7
7 bankruptcy case pending in San Antonio, Texas. Ms. Liesenfeld is entitled to proceed to effectuate
8 collection in the Texas courts, without being further barred by these bankruptcy proceedings in
9 which non-confirmable plans are proposed. There is no present prospect that any new plan can
10 overcome these obstacles. The current plan is not feasible, 11 U.S.C. § 1325(a)(6), and confirmation
11 was and is denied.

12 Cause therefore exists to dismiss this case, with a six-month bar to refiling.

13 Counsel for Ms. Liesenfeld shall prepare a form of order denying confirmation and
14 dismissing this case.

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16 DATED: July 20, 2006.

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19 JAMES M. MARLAR
20 UNITED STATES BANKRUPTCY JUDGE
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1 COPIES served as indicated below this 20
2 day of July, 2006, upon:

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By /s/ M. B. Thompson
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