



THE FOLLOWING ORDER  
IS APPROVED AND ENTERED  
AS THE ORDER OF THIS COURT:

DATED: October 7, 2019

*Katherine M. Perhach*  
Katherine Maloney Perhach  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In re:  
Jason Lowman and  
Jeanna Lowman,  
Debtors.

Chapter 7  
Case No. 16-20057-kmp

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**ORDER DENYING REQUEST TO DELAY DISCHARGE AND  
GRANTING EXTENSION OF TIME TO FILE REAFFIRMATION AGREEMENT**

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On October 4, 2019, the Debtors filed a Sixth Motion to Extend the Deadline to File a Reaffirmation Agreement and Delay the Discharge, recognizing that in order to be enforceable, an agreement to reaffirm a debt that is at least partially dischargeable must be made before the granting of a discharge. *See* 11 U.S.C. § 524(c)(1). Because Bankruptcy Rule 4004(c)(2) does not permit the Court to grant a deferral of the discharge beyond the two the Court has already granted, the Court denies the request for deferral of discharge made in the Debtors' Sixth Motion. However, the Court will stay effectiveness of this Order until after the deferral date the Debtors request in the Sixth Motion, and the Court will grant the requested extension of time for the Debtors to file a reaffirmation agreement.

Bankruptcy Rule 4004(c)(2) provides, "[n]otwithstanding Rule 4004(c)(1), on motion of the debtor, the court may defer the entry of an order granting a discharge for 30 days and, on motion within that period, the court may defer entry of the order to a date certain." The rule permits the Court to delay the discharge only twice on the debtor's motion, once for 30 days, and again "to a date certain" if the debtor files another motion during the 30-day period. *See In re Kropp*, 16-29342-gmh (Bankr. E.D. Wis. June 5, 2017). The deadline for filing a reaffirmation agreement and for objecting to discharge in this case was May 6, 2019, and the Court has already deferred the entry of discharge twice. On May 7, 2019, the Court entered an order delaying the entry of discharge until after June 5, 2019, 30 days after the filing of the Debtors' First Motion to Extend the Deadline to File a Reaffirmation Agreement and Delay the Discharge. On June 5, 2019, within the 30-day period, the Debtors filed a Second Motion to Extend the Deadline to File a Reaffirmation Agreement and Delay the Discharge. As permitted by the rule, the Court

deferred discharge until after July 5, 2019. However, the rule does not authorize any further deferrals.

When the Debtors filed a Third Motion to Extend the Deadline to File a Reaffirmation Agreement and Delay the Discharge on July 5, 2019, a Fourth Motion on August 5, 2019, and a Fifth Motion on September 5, 2019, the Court held the Motions, since pursuant to Bankruptcy Rule 4004(c)(1)(J), a court “shall not grant the discharge if . . . a motion to enlarge the time to file a reaffirmation agreement under Rule 4008(a) is pending.” None of the Motions provide any explanation of why the Debtors require such an unusually long period of time to enter into a reaffirmation agreement or agreements. This leaves the Court to speculate, based on the Debtors’ schedules, Statement of Intention, and Application to Employ Michael F. Dubis, S.C. as attorney for the Chapter 7 Trustee “to void and preserve for the benefit of the estate a first mortgage and possibly a second mortgage,” that the delay may relate to a potential settlement of a claim by the Trustee. However, the Trustee has not filed any action or motion to compromise in the seven months following the first date set for the § 341 meeting, and the Court has no information about the reason for the delay. In general, the Court may be amenable to granting a second and final deferral of discharge under Rule 4004(c)(2) for a period of more than 30 days, provided the debtor explains the reason for the request.

Like the previous Motions, the Sixth Motion also requests an extension of time to file a reaffirmation agreement. The Court construes this as a request pursuant to Bankruptcy Rule 4008(a). According to that rule, the Court “may, at any time and in its discretion, enlarge the time to file a reaffirmation agreement.” Accordingly,

IT IS THEREFORE ORDERED: the Debtors’ request for an extension of time to file a reaffirmation agreement is granted. The time by which the Debtors may file a reaffirmation agreement is extended through and including November 6, 2019.

IT IS FURTHER ORDERED: the Debtors’ request to delay the discharge pursuant to Bankruptcy Rule 4004(c)(2) is denied, but the effectiveness of this Order shall be stayed until November 7, 2019.

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