

The United States Bankruptcy Court for the District of Maryland dismissed chapter 7 debtors' bankruptcy case, finding evidence of abuse under Section 707(b).

***In re Price*, No. 14-13186-WIL, 2015 WL 1543006 (Bankr. D. Md. Mar. 30, 2015).**

Summary by Lauren A. Ford, McGuireWoods LLP

In *In re Price*, the Honorable Judge Wendelin Lipp of the U.S. Bankruptcy Court for the District of Maryland granted a creditor's motion to dismiss the Price's (the "Debtors") bankruptcy case¹ for abuse of the Bankruptcy Code under Section 707(b).

Judge Lipp analyzed the issue pursuant to the factors set forth by the United States Court of Appeals for the Fourth Circuit in *Green v. Staples (In re Green)*, 934 F.2d 568 (4th Cir. 1991). The *Green* factors look at the "totality of the circumstances" to set forth a road map for deciding whether to dismiss a case as abusive under Section 707(b)(3)(B). The *Green* factors are: (1) Whether the bankruptcy petition was filed because of sudden illness, calamity, disability, or unemployment; (2) Whether the debtor incurred cash advances and made consumer purchases far in excess of his ability to repay; (3) Whether the debtor's proposed family budget is excessive or unreasonable; (4) Whether the debtor's schedules and statement of current income and expenses reasonably and accurately reflect the true financial condition; and (5) Whether the petition was filed in good faith. *Id.* at *3-4.

While the Court held that the first and second factors did not weigh in favor of dismissal, an analysis of the remaining three factors led the Court to its finding of abuse. According to the Court, the fourth *Green* factor, whether the statement of current income and expenses reasonably and accurately reflect the debtors' true financial condition, offered the strongest evidence of abuse. *Id.* at *6. The Debtors' failure to include substantial travel reimbursements in their monthly income, coupled with significant increases in monthly expenses on their Amended Schedule J "falls short of 'full and accurate disclosure' of the Debtors' finances, which is essential to the bankruptcy process." *Id.* Given the inaccuracies in the Debtors' schedules, it is impossible for the Court, the Trustee, and the creditors to fully ascertain the Debtors' true financial situation. The lack of transparency in the Debtors' schedules provided sufficient evidence of bad faith, satisfying both the final *Green* factor and the alternative basis for dismissal set forth in Section 707(b)(3)(A). *Id.* at 7. The Debtors failed to present evidence to rebut these findings. Consequently, the Court dismissed the case for a finding of abuse pursuant to Section 707(b).

¹ This was the Debtor's third bankruptcy filing since 2012.