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Central District of California  
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**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

DON P. CHAIREZ and MARIA J.  
CHAIREZ,

Debtors.

Case No. 2:15-bk-27143-RK

Chapter 11

**ORDER DISMISSING CASE**

Date: February 7, 2018

Time: 11:00 a.m.

Courtroom: 1675

This Chapter 11 bankruptcy case came on for a continued hearing on February 7, 2018 before the undersigned United States Bankruptcy Judge on the motion of Debtors Don P. Chairez and Maria J. Chairez to approve disclosure statement and for a case status conference pursuant to 11 U.S.C. § 105(d). Jeffrey A. Cogan, of the law firm of Jeffrey A. Cogan, Esq., Ltd., appeared for Debtors. No other appearances were made.

After hearing from counsel, the court determined that cause is shown for dismissal or conversion of the case under 11 U.S.C. § 1112(b)(4)(J) for failure to file a disclosure statement within the time fixed under the Bankruptcy Code or by order of the

1 court pursuant to 11 U.S.C. § 1112(b)(4)(J). Cause exists for dismissal or conversion  
2 under 11 U.S.C. § 1112(b)(4)(J) because in this small business Chapter 11 case,  
3 debtors have failed to timely confirm their plan within 45 days of the filing of their plan  
4 on November 23, 2016, that is, the deadline to confirm a plan was January 6, 2017, as  
5 required by 11 U.S.C. §§ 1129(e) and 1121(e), which was not met. *In re Roots Rents,*  
6 *Inc.*, 420 B.R. 28 (Bankr. D. Idaho 2009).

7 Cause under 11 U.S.C. § 1112(b)(4)(J) is also shown in that although Debtors  
8 filed a second amended disclosure statement on January 31, 2018 for their first  
9 amended plan filed on July 31, 2017, not all of the concerns raised in the court's  
10 tentative rulings for, and repeated comments during, prior hearings on debtors' prior  
11 disclosure statements as well as the court's order denying approval of Debtor's original  
12 disclosure statement, filed and entered on February 15, 2017 have been addressed and  
13 remedied regarding the lack of financial data of the Debtor husband's law practice for  
14 the past three years, the lack of financial projections of income and expenses for  
15 Debtors, and the justification of payment of the expenses of adult dependents, which  
16 are not provided in the original, the first or the second amended disclosure statements.

17 Having determined that cause exists for dismissal or conversion under 11 U.S.C.  
18 § 1112(b)(4)(J), the court must consider and determine whether dismissal, conversion  
19 or appointment of a trustee is in the best interests of all of the creditors and the  
20 bankruptcy estate. See, *In re Sullivan*, 522 B.R. 604, 612-614 (9<sup>th</sup> Cir. BAP 2014). The  
21 creditors have not been active in this case, including the largest creditor, the Bank of  
22 Nevada, which filed a proof of claim of about \$373,000, which is over half of the amount  
23 of unsecured claims filed in this case totaling about \$700,000. The creditors have not  
24 appeared generally at hearings in this case since the case was reassigned to the  
25 undersigned United States Bankruptcy Judge in March 2017. According to Debtors in  
26 the second amended disclosure statement, their Chapter 7 liquidation analysis would  
27 result in an estimated general unsecured creditor dividend of 2 percent of claims. While  
28 this analysis is uncorroborated, it may explain the lack of interest of creditors in

1 appearing in the case and the lack of benefit to creditors in having the case converted to  
2 Chapter 7 or a Chapter 11 trustee appointed. Thus, the court has reason to determine  
3 that conversion or trustee appointment would not be in the best interest of creditors and  
4 that it would be best to dismiss the case and allow the Debtor to work out their debts  
5 with their creditors outside of bankruptcy. This would allow the creditors to pursue their  
6 nonbankruptcy collection remedies once the case is dismissed. Therefore, the court  
7 determines that dismissal under the circumstances of this case is in the best interests of  
8 all of the creditors and the estate.

9 At the hearing, counsel for the Debtors indicated that he had consulted with the  
10 Debtors about the court's tentative rulings posted before the hearing and status  
11 conference on February 7, 2018 that it was considering dismissal of the case for cause  
12 under 11 U.S.C. § 1112(b)(4)(J) and that they would agree to dismissal of the case  
13 without a bar on filing another bankruptcy case.

14 Accordingly, the court dismisses this Chapter 11 bankruptcy case pursuant to 11  
15 U.S.C. §§ 105(a) and (d) and 1112(b). There is no bar to the Debtors filing a new case  
16 under the Bankruptcy Code, 11 U.S.C.

17 IT IS SO ORDERED.

18 ###

25 Date: February 8, 2018

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Robert Kwan  
United States Bankruptcy Judge