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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**Mark A. Wise and
Cynthia D. Wise,
Debtors.**

**Chapter 7 Case
10-11140**

*Appearances: David W. Lynch, Esq.
Colchester, VT
For the Debtors*

*Kevin Purcell, Esq.
Albany, NY
For the United States Trustee*

ORDER

DENYING THE UNITED STATES TRUSTEE'S MOTION TO DISMISS CASE


For the reasons set forth in the memorandum of decision of even date, IT IS HEREBY ORDERED that

1. the United States Trustee's motion to dismiss the Debtors' chapter 7 case for abuse of the bankruptcy system under § 707(b)(1), based upon a presumption of abuse under § 707(b)(2), is time-barred; and
2. the United States Trustee's motion to dismiss the instant case under § 707(b)(3)(B), is denied due to the movant's failure to demonstrate abuse based upon the totality of the circumstances.

Accordingly, the United States Trustee's motion to dismiss is DENIED in toto.

SO ORDERED.

July 25, 2011
Burlington, Vermont


Colleen A. Brown
United States Bankruptcy Judge