

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE

In re:

Bk. No. 08-11568-MWV  
Chapter 7

Richard P. Borriello, Sr., and  
Pamela A. Borriello,  
Debtors

*Michael J. Scott, Esq.*  
*SCOTT & SCOTT, P.A.*  
*Attorney for the Debtors*

*William H. Harris, Esq.*  
*ZWICKER & ASSOCIATES, PC*  
*Attorney for Richard Breen*

**MEMORANDUM OPINION**

Richard P. Borriello, Sr., and Pamela A. Borriello (the “Debtors”) filed a motion to convert (the “motion”) their chapter 7 case to one under chapter 13 on June 16, 2009 (Ct. Doc. No. 47), pursuant to 11 U.S.C. § 706(a).<sup>1</sup> Creditor Richard Breen (“Breen”) filed an objection to the Debtors’ motion alleging that the motion should be denied because the Debtors’ noncontingent, liquidated, unsecured debts exceed the limits as set under 11 U.S.C. § 109(e). Additionally, Breen argues the motion should be denied because the Debtors’ conversion is motivated by “bad faith.” On August 20, 2009, the Court held a hearing on the motion. The Court ordered the parties to submit supplemental memoranda indicating each party’s belief as to the proper 11 U.S.C. § 109(e) calculation by September 8, 2009, at which time the Court took the matter under advisement.

**JURISDICTION**

This Court has jurisdiction of the subject matter and the parties pursuant to 28 U.S.C. §§ 1334 and 157(a) and the “Standing Order of Referral of Title 11 Proceedings to the United States Bankruptcy

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<sup>1</sup>Unless otherwise indicated, the terms “Bankruptcy Code,” “section” and “§” refer to Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.*, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8.