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Subject:08-10465-s7 Doc. 17 Joel Brett Neatherlin and Denise Marie Neatherlin -- Generic (Ord

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**U.S. BANKRUPTCY COURT**

**New Mexico**

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**Case Name:** Joel Brett Neatherlin and Denise Marie Neatherlin

**Case Number:** [08-10465-s7](#)

**Document Number:** [17](#)

**Docket Text:**

Order Denying Approval of Reaffirmation Agreement with Capital One Auto Finance (RE: related document(s)[15] Amended Document, [14] Amended Document, [10] Reaffirmation Agreement filed by Creditor Capital One Auto Finance). (mba)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**J:\Ace\08-10465.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=1021991579 [Date=4/24/2008] [FileNumber=1341182-0  
] [57292fb25cb9fd05c7e67ac4d4dce8810f032c5da1e1262a57fe4c250dafc686c65  
9497ff7def5ff2eb9ee5a20b749fa9759a110b284c7401f1a784e105ec353]]

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**Notice will not be electronically mailed to:**

Capital One Auto Finance  
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Dallas, Tx 75382

Recovery Management Systems Corporation  
25 SE 2nd Avenue, Suite 1120  
Miami, Fl 33131

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO

In re:  
JOEL BRETT NEATHERLIN and  
DENISE MARIE NEATHERLIN,  
Debtors.

No. 7-08-10465 SL

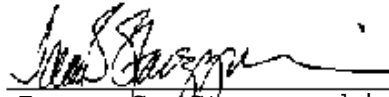
**ORDER DENYING APPROVAL OF REAFFIRMATION AGREEMENT  
WITH CAPITAL ONE AUTO FINANCE (DOC 15)**

The reaffirmation agreement (doc 10, amended docs 14 and 15) between Debtors and Capital One Auto Finance ("Creditor") came before the Court for a hearing on April 22, 2008. Debtors and their counsel Kieran Ryan appeared by telephone; Creditor did not although it was noticed of the hearing. The Court has reviewed the reaffirmation agreement and other portions of the file and finds that the agreement should not be approved, for the following reasons:

The agreement is labeled on the first page as raising no presumption of abuse, yet part D lists Debtors' net income as \$1,667 and expenses as \$3,065, resulting in a monthly deficit of \$1,398. Part D also provides no explanation about how Debtors will be able to afford to make the payments. And the agreement has not been signed by Mr. Lozano or any other representative of Creditor. In submitting reaffirmation agreements to the Court for approval, this Court considers that the creditor has the burden of ensuring that the agreement meets the requirements of the Bankruptcy Code and Rules (including any applicable local rules), since reaffirmation agreements largely benefit creditors and since creditors are the party in each transaction who have

far more experience and resources to ensure compliance with the statutes and rules.

IT IS THEREFORE ORDERED that the reaffirmation between Debtors and Capital One Auto Finance (doc 10, amended docs 14 and 15) is disapproved pursuant to 11 U.S.C. §524(m).



James S. Starzynski  
United States Bankruptcy Judge

Date Entered on Docket: April 24, 2008

COPY TO:

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