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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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In re:

MICHAEL T. CAREY and
LEONE R. CAREY, Debtors.

_____ /

UNITED STATES OF AMERICA,
Plaintiff,

NO. CIV. S-11-1092 FCD

v.

MEMORANDUM AND ORDER

MICHAEL T. CAREY and LEONE R.
CAREY,
Defendants.

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This matter is before the court on appellee the United States of America's motion to dismiss this bankruptcy appeal as untimely filed.¹ Appellee originally noticed the motion for May 27, 2011. However, pro se appellants, debtors Michael and Leone Carey, did not respond to the motion. As such, on May 17, 2011,

¹ Because oral argument will not be of material assistance, the court orders this matter submitted on the briefs. E.D. Cal. L.R. 230(g).

1 the court issued an order to show cause ("OSC"), ordering
2 appellants, on or before May 27, 2011, (1) to show cause why they
3 should not be sanctioned \$150.00 for their failure to timely file
4 an opposition or statement of non-opposition to the motion and
5 (2) to respond to appellee's motion. (Docket #5.) Appellants
6 again did not respond.

7 Accordingly, the court construes appellants' failure to
8 respond as a non-opposition to appellee's motion, and it HEREBY
9 grants appellee's motion, dismissing the appeal as untimely.
10 Fed. R. Bank. Proc. § 8002(a) (requiring a Notice of Appeal to be
11 filed within 14 days of the entry of the applicable order).²
12 Considering appellants' pro se status, the court will nonetheless
13 discharge the OSC. Appellants' appeal is dismissed but the court
14 will not enter sanctions against appellants.

15 IT IS SO ORDERED.

16 DATED: June 7, 2011



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19 FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE

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27 ² Here, the order from which appellants seek to take an
28 appeal was entered on March 7, 2011, but appellants did not file
their Notice of Appeal until April 1, 2011.