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3 UNITED STATES BANKRUPTCY COURT  
4 EASTERN DISTRICT OF CALIFORNIA  
5 SACRAMENTO DIVISION  
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8 In re: )  
9 ) Case No. 05-36759-B-7  
10 ROLAND/NANCY LITTLE, ) Docket Control No. RJH-1  
11 Debtors. ) Date: September 26, 2006  
12 ) Time: 9:30 a.m.  
\_\_\_\_\_ )

13 On or after the calendar set forth above, the court issued  
14 the following ruling. The official record of the ruling is  
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of  
16 the court's decision under the E-Government Act of 2002 (the  
"Act"), a copy of the ruling is hereby posted on the court's  
17 Internet site, [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov), in a text-searchable  
18 format, as required by the Act. However, this posting does not  
constitute the official record, which is always the ruling  
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 Neither the respondent within the time for opposition nor the  
21 movant within the time for reply has filed a separate statement  
22 identifying each disputed material factual issue relating to the  
23 motion. Accordingly, both movant and respondent have consented to the  
24 resolution of the motion and all disputed material factual issues  
25 pursuant to FRCivP 43(e). LBR 9014-1(f)(1)(ii) and (iii).

26 The motion is denied. "For an order for turnover to be  
27 appropriate, it is necessary that a trustee demonstrate, not only that  
28 the debtor received or had possession of estate property, but also

1 that the debtor was in possession of the property, or its value, at  
2 the time the turnover motion was filed." In re Muniz, 320 B.R. 697,  
3 699-700 (Bankr. D. Colo. 2005). See also Maggio v. Zeitz, 333 U.S.  
4 56, 63, 68 S.Ct. 401, 405, 92 L.Ed. 476 (1948); Hager v. Gibson, 109  
5 F.3d 201, 210 (4th Cir. 1997); Lawrence v. Chapter 7 Trustee (In re  
6 Lawrence), 251 B.R. 630, 639 (D. Fla. 2000). In this instance, the  
7 debtors affirmatively state that they received their income tax refund  
8 and used the entire amount, including the estate's portion, to pay  
9 bills. The debtors no longer possess the property in question and  
10 thus a turnover order is inappropriate.

11 The court will issue a minute order.  
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