

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus

Bankruptcy Judge

Sacramento, California

January 5, 2009 at 10:00 a.m.

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1. [08-36203](#)-A-13G FLANDRA/LATEF GRIM HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-8-08 [[11](#)]

- Telephone Appearance
 Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 5, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on November 20. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45th day of a case, the case is automatically dismissed on the 46th day. See 11 U.S.C. § 521(i)(1). In this case, the 45th day was December 20. The schedules and statements were not filed on or before the 45th day. Thus, on December 21, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

2. 08-36803-A-13G EDWARD/VICKIE ORDEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-12-08 [14]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

3. 08-29104-A-13G LOWELL/MARGIEANN SARMIENTO HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
12-5-08 [65]

- Telephone Appearance
 Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$1,729 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

January 5, 2009 at 10:00 a.m.

4. 08-36712-A-13G PHILIP YEE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-12-08 [12]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

5. 08-36613-A-13G ROSELLYN ROQUE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-12-08 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 13, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on November 28. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45th day of a case, the case is automatically dismissed on the 46th day. See 11 U.S.C. § 521(i)(1). In this case, the 45th day was December 28. The schedules and statements were not filed on or before the 45th day. Thus, on December 29, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

6. 08-37229-A-13G ANGELA EGBUCHULAM HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-15-08 [12]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

11 U.S.C. § 521(a)(1), Fed. R. Bankr. P. 1007(b) & (c), and Fed. R. Bankr. R. 3015(b) required that the debtor file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts, a statement of current monthly income, and a proposed plan no later than 15 days after the filing of the petition. The 15-day period has expired without any of these documents being filed. By failing to timely file these documents, the debtor has delayed the prosecution of the case to the detriment of creditors. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

7. 08-32632-A-13G RANDY/LAURIE JAHODA HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
12-8-08 [26]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$3,015 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

8. 08-34035-A-13G ROBYN TODD HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
12-5-08 [45]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$16,195 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

9. 08-32850-A-13G TERRY/CHRISTINE MONGSENE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-4-08 [27]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

10. 08-30152-A-13G DOLORES DORSEY HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-8-08 [49]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

11. 08-26155-A-13G CESAR/LETECIA MORENO HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
12-11-08 [62]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor failed to appear at the meeting of creditors on four occasions as required by 11 U.S.C. § 343. This breach of duty is cause to dismiss the petition. See 11 U.S.C. § 1307(c)(6).

12. 08-36555-A-13G LUIS PALMA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-3-08 [17]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has not proposed a plan within 15 days of the filing of the petition as required by Fed. R. Bankr. P. 3015(b). Because no plan has been filed, it comes as no surprise that the debtor has failed to commence plan payments. This is cause for dismissal of the case. See 11 U.S.C. § 1307(c)(3) & (c)(4).

13. 08-30456-A-13G FREDDIE/JAIME BINGLEY HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
12-5-08 [51]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$3,228.66 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

14. 08-34558-A-13G WILLIAM HENTON HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
12-5-08 [30]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to commence making plan payments and has not paid approximately \$2,700 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(4).

15. 04-31661-A-13G JERRY/DEBORAH WALKER HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-5-08 [77]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

16. 08-34162-A-13G JERRY/CYNTHIA PORTER HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
12-8-08 [22]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to commence making plan payments and has not paid approximately \$3,265 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(4).

17. 08-24763-A-13G BRUCE/ROSEANNA NOTHSTEIN HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-4-08 [89]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The court sustained an objection to confirmation at a hearing on November 10. The debtor thereafter failed to promptly propose a modified plan and set it for a confirmation hearing. This fact suggests to the court that the debtor either does not intend to confirm a plan or does not have the ability to do so. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(5).

18. 08-36264-A-13G STEVEN/LUCY COOK HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
11-25-08 [10]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

19. 08-29274-A-13G JAMES/ROCHELLE AKINS HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
12-5-08 [43]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$6,400 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

20. 08-37674-A-13G HERNAN LAVANDERA
RDG #1

HEARING - MOTION FOR
ORDER OF DISMISSAL
12-19-08 [8]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

11 U.S.C. § 521(a)(1), Fed. R. Bankr. P. 1007(b) & (c), and Fed. R. Bankr. R. 3015(b) required that the debtor file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts, a statement of current monthly income, and a proposed plan no later than 15 days after the filing of the petition. The 15-day period has expired without any of these documents being filed. By failing to timely file these documents, the debtor has delayed the prosecution of the case to the detriment of creditors. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Also, an order to show cause was issued because the debtor failed to file Exhibit D to the petition together with a certificate for credit counseling as required by Fed. R. Bankr. P. 1007(b)(3) and 11 U.S.C. § 521(b). The time to file these documents has expired. See Fed. R. Bankr. P. 1007(c). Thus, the debtor has not established eligibility for bankruptcy relief. See 11 U.S.C. § 109(h). This too is cause for dismissal.

21. 08-31283-A-13G JEAN O'BRION
RDG #3

HEARING - MOTION FOR
ORDER OF DISMISSAL
12-8-08 [36]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

22. 08-35289-A-13G LEAH BERNSTEIN
RDG #1

HEARING - MOTION FOR
ORDER OF DISMISSAL
12-5-08 [26]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to commence making plan payments and has not paid approximately \$2,300 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(4).

23. 08-30593-A-13G DONALD GAREIS
RDG #1

HEARING - MOTION FOR
ORDER OF DISMISSAL
12-4-08 [26]

Final Ruling: The trustee has voluntarily dismissed his motion. The case will remain pending.

24. 08-30993-A-13G WAIS HAKIMI HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-4-08 [22]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

This case was filed on August 7. No plan has been confirmed. An amended plan was proposed by the debtor on October 31. However, the debtor has not served the plan together with a motion to confirm it. As a result, no plan is likely to be confirmed in the near future. This fact, together with the fact that the amended plan as been pending for more than 2 months with no movant toward its confirmation suggests to the court that the debtor does not intend to confirm a plan. This is prejudicial to creditors and is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

25. 08-36395-A-13G CHRIS UDARBE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-5-08 [11]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has not proposed a plan within 15 days of the filing of the petition as required by Fed. R. Bankr. P. 3015(b). Because no plan has been filed, it comes as no surprise that the debtor has failed to commence plan payments. This is cause for dismissal of the case. See 11 U.S.C. § 1307(c)(3) & (c)(4).

26. 08-36499-A-13G GWEN/MARVIN MATTHEWS HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
12-12-08 [20]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case will be dismissed.

The debtor has failed to propose a chapter 13 plan utilizing the form mandated by General Order 05-03. This has delayed confirmation of a plan to the prejudice of creditors and is cause for dismissal. See 11 U.S.C. § 1307(c)(1).