

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

April 25, 2017 at 1:00 p.m.

1. [17-20707](#)-B-13 ROGER GREER CONTINUED OBJECTION TO
JPJ-1 Seth L. Hanson CONFIRMATION OF PLAN BY JAN P.
Thru #2 JOHNSON
3-22-17 [[18](#)]

Tentative Ruling: The Objection to Confirmation of Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, the Debtor failed to submit proof of his social security number to the Trustee at the meeting of creditors held March 16, 2017, as required pursuant to Fed. R. Bankr. P. 4002(b)(1)(B).

Second, the Debtor has not served upon the Trustee a Class 1 Checklist and Authorization to Release Information. The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(b)(6).

Third, the meeting of creditors was continued to April 20, 2017, at which time the Debtor must have filed his 2015 tax return and provide the Trustee with copies. The Debtor did not appear at the continued meeting of creditors and did not provide the Trustee with a copy of his 2015 tax return.

For the reasons stated above, the plan filed February 2, 2017, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The court will enter an appropriate minute order.

2. [17-20707](#)-B-13 ROGER GREER CONTINUED OBJECTION TO
MJ-1 Seth L. Hanson CONFIRMATION OF PLAN BY
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION
3-23-17 [[21](#)]

Tentative Ruling: The Objection to Confirmation of Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

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The court's decision is to overrule the objection but deny confirmation of the plan for reasons stated at Item #1.

The JPMorgan Chase Bank, N.A. holds a deed of trust secured by the Debtor's residence. The creditor asserts \$893.32 in pre-petition arrearages but has not yet filed a proof of claim. Although the creditor states that it will file a proof of claim prior to the claims bar deadline, the creditor provides no evidence to support the amount of claimed pre-petition arrears. The creditor does not provide a Declaration from any individual who maintains or controls the bank's loan records or any other supporting evidence. Without a proof of claim or evidence to support its assertion, the creditor's objection is overruled.

The court will enter an appropriate minute order.

3. [16-28315](#)-B-13 LILIBETH SELLI
JPJ-1 David Foyil

MOTION TO DISMISS CASE
3-15-17 [[41](#)]

Final Ruling: No appearance at the April 25, 2017, hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to dismiss the case.

Section 1324 requires that a confirmation hearing be held no earlier than 20 days and not later than 45 days after the date of the meeting of creditors. The 45-day deadline set by 11 U.S.C. § 1324 expired on March 18, 2017. A confirmation hearing was conducted on April 18, 2016, in which the court sustained the Trustee's objections and denied the motion to confirm. A timely confirmation hearing was not conducted prior to March 18, 2017, and there is cause to dismiss the case.

Additionally, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court will enter an appropriate minute order.

4. [17-20515](#)-B-13 SHIU NATH ORDER TO SHOW CAUSE - FAILURE
Thru #6 Pro Se TO PAY FEES
4-3-17 [[26](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due March 28, 2017. The court's docket reflects that the default has not been cured.

The court will enter an appropriate minute order.

5. [17-20515](#)-B-13 SHIU NATH CONTINUED OBJECTION TO
JPJ-1 Pro Se CONFIRMATION OF PLAN BY JAN P.
JOHNSON AND/OR MOTION TO
DISMISS CASE
3-22-17 [[21](#)]

Tentative Ruling: This matter was continued form April 11, 2017, to be heard after the continued meeting of creditors scheduled for April 20, 2017. The Trustee's Objection to Confirmation of the Chapter 13 Plan and Conditional Motion to Dismiss Case was originally filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C).

The case having been dismissed at Item #4, the court's decision is to overrule the objection as moot and dismiss the motion as moot.

The court will enter an appropriate minute order.

6. [17-20515](#)-B-13 SHIU NATH CONTINUED AMENDED OBJECTION TO
RCO-1 Pro Se CONFIRMATION OF PLAN BY WELLS
FARGO BANK, N.A.
3-28-17 [[25](#)]

Tentative Ruling: This matter was continued form April 11, 2017, to be heard after the continued meeting of creditors scheduled for April 20, 2017. The Amended Objection to Confirmation of Chapter 13 Plan was originally filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C).

The case having been dismissed at Item #4, the court's decision is to overrule the objection as moot.

The court will enter an appropriate minute order.

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

The plan understates the amount of unsecured non-priority claims in Section 2.15 at \$28.00. The total amount of allowed unsecured non-priority claims is \$6,966.25. The plan will take a total of 121 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 85 months longer than the proposed duration of 36 months. The case is currently in month 25.

The Debtor did not timely file objections to the claims nor timely file a modified plan pursuant to Local Bankr. R. 3007-1(d), which is applicable to cases filed on or after May 1, 2012. The failure of the Debtor to timely file objections to claims within 60 days after service of the Notice of Filed Claims or to timely file a modified plan within 90 days after service of the Notice of Filed Claims constitutes an unreasonable delay by the Debtor that is prejudicial to creditors. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court will enter an appropriate minute order.

8. [15-26834](#)-B-13 CLYDE HUGHES
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-16-17 [[71](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's decision is to discharge the Order to Show Cause with no sanctions ordered.

The Order to Show Cause was issued due to creditor Champion Mortgage Company's failure to pay the \$181.00 filing fee with respect to the Motion for Relief From Stay (dkt. 62). The court's docket reflects that the default was cured on April 18, 2017.

The court will enter an appropriate minute order.

9. [17-20741](#)-B-13 JOSE RIOS ORDER TO SHOW CAUSE - FAILURE
Thru #10 Steele Lanphier TO PAY FEES
3-13-17 [[14](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due March 8, 2017. The court's docket reflects that the default has not been cured.

The court will enter an appropriate minute order.

10. [17-20741](#)-B-13 JOSE RIOS CONTINUED OBJECTION TO
JPJ-1 Steele Lanphier CONFIRMATION OF PLAN BY JAN P.
DISMISS CASE
3-22-17 [[16](#)]

Tentative Ruling: This matter was continued from April 11, 2017, to be heard after the continued meeting of creditors scheduled for April 20, 2017. The Trustee's Objection to Confirmation of the Chapter 13 Plan and Conditional Motion to Dismiss Case was originally filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C).

The case having been dismissed at Item #9, the court's decision is to overrule the objection as moot and dismiss the motion as moot.

The court will enter an appropriate minute order.

11. [17-20253](#)-B-13 JENNY LOPEZ
Steele Lanphier

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-23-17 [[23](#)]

DEBTOR DISMISSED: 03/31/2017

Final Ruling: No appearance at the April 25, 2017, hearing is required.

The case having been dismissed on March 31, 2017, the court's decision is to discharge the Order to Show Cause.

The court will enter an appropriate minute order.

12. [13-25569](#)-B-13 LINDA GARCIA
JPJ-3 Steven A. Alpert

MOTION TO DISMISS CASE
4-5-17 [[43](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

The plan understates the priority claim of the Franchise Tax Board at \$3,000.00. The proof of claims of FTB shows a priority claim of \$3,466.03. The confirmed plan also understates the priority claim of the Internal Revenue Service at \$8,000.00. The proof of claim filed by the IRS shows a priority claim of \$12,615.61. The plan will take a total of 76 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 16 months longer than the proposed duration of 60 months. The case is currently in month 48.

The Debtor did not timely file objections to the claims nor timely file a modified plan pursuant to Local Bankr. R. 3007-1(d), which is applicable to cases filed on or after May 1, 2012. The failure of the Debtor to timely file objections to claims within 60 days after service of the Notice of Filed Claims or to timely file a modified plan within 90 days after service of the Notice of Filed Claims constitutes an unreasonable delay by the Debtor that is prejudicial to creditors. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court will enter an appropriate minute order.

13. [16-26597](#)-B-13 FAVIOLA VALENCIA-ARANDA MOTION TO DISMISS CASE
JPJ-2 AND JOSE ARANDA 3-17-17 [[97](#)]
Pro Se

WITHDRAWN BY M.P.

Final Ruling: No appearance at the April 25, 2017, hearing is required.

The Chapter 13 Trustee having filed a Notice of Withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar and the case will proceed in this court.

The court will enter an appropriate minute order.

14. [17-20699](#)-B-13 JOHN MEHL
JPJ-1 Pro Se

MOTION TO DISMISS CASE
4-7-17 [[34](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor's certificate from an approved nonprofit budget and credit counseling agency was received on February 27, 2017, which was not during the 180-day period preceding the date of the filing of the petition pursuant to 11 U.S.C. § 109(h). The Debtor's briefing was received after the petition was filed on February 2, 2017.

Second, the Debtor is delinquent to the Trustee in the amount of \$188.00, which represents approximately 1 plan payment. By the time this motion will be heard, an additional plan payment of \$188.00 will be due. The Debtor has not made any plan payment since this petition was filed. Cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1) and (c)(4).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court will enter an appropriate minute order.