



The court will issue a minute order.

3. [11-27501](#)-B-13 ADAM TREMOUREUX AND DONA MOTION TO VACATE DISMISSAL OF  
ADR-8 LEVY-TREMOUREUX CASE  
9-21-13 [[93](#)]  
CASE DISMISSED 9/4/13

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

4. [13-24704](#)-B-13 TIMOTHY/KERRI FULTON MOTION TO CONFIRM PLAN  
SJJ-9 8-19-13 [[108](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed August 19, 2013, is denied.

The court will issue a minute order.

5. [13-24704](#)-B-13 TIMOTHY/KERRI FULTON COUNTER MOTION TO DISMISS CASE  
SJJ-9 9-23-13 [[119](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before October 22, 2013, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

6. [13-31905](#)-B-13 JOHN/JACLYN LABARBERA MOTION TO EXTEND AUTOMATIC STAY  
BLG-2 9-13-13 [[17](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the

court issues no tentative ruling on the merits of the motion.

7. [13-29706](#)-B-13 FRANK/JOSEPHINE OLIVAS OBJECTION TO DEBTOR'S CLAIM OF  
JPJ-2 EXEMPTIONS  
9-13-13 [[25](#)]

**Tentative Ruling:** None.

8. [13-21407](#)-B-13 CHARLES/SUZANNE ELLIS MOTION TO CONFIRM PLAN  
RAH-4 8-13-13 [[83](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed August 13, 2013, is denied.

The countermotion is conditionally denied, the conditions being that on or before October 22, 2013, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

9. [11-32208](#)-B-13 IMELDA ZARATE MOTION TO MODIFY PLAN  
PGM-2 8-22-13 [[39](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed August 2, 2013, is confirmed.

The court will issue a minute order.

10. [09-42713](#)-B-13 DAVID/KELLY SCOTT  
JT-3

MOTION TO VALUE COLLATERAL OF  
GMAC MORTGAGE, LLC  
9-6-13 [[47](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of GMAC Mortgage, LLC's ("GMAC") claim in this case secured by the second deed of trust on real property located at 2077 Grove Road, Yuba City, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$123,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by BAC Home Loans with a balance of approximately \$228,399.00. Thus, the value of the collateral available to GMAC on its second deed of trust is \$0.00.

The court will issue a minute order.

11. [13-29113](#)-B-13 MICHAEL BUSH  
CAH-1

MOTION TO CONFIRM PLAN  
8-13-13 [[20](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted and the amended plan filed August 12, 2013, will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

12. [13-29814](#)-B-13 SUSAN LAWING  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-19-13 [[22](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed August 8, 2013, is denied. The trustee's motion to dismiss is

conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

13. [12-20015](#)-B-13 ROBERT/VERONICA WARDLOW MOTION TO MODIFY PLAN  
MET-3 8-24-13 [[47](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is overruled. The modified plan filed August 24, 2013, is confirmed with the following modification: the payment provisions of the plan shall provide that the debtors have paid a total of \$77,138.00 into the plan through August 25, 2013. Commencing with the payment beginning September 25, 2013, the debtors shall pay \$970.00 per month for 42 months.

The court will issue a minute order.

14. [13-28916](#)-B-13 DONALD LEE CONTINUED MOTION TO VALUE  
DJC-1 COLLATERAL OF AMERICREDIT  
8-15-13 [[20](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is removed from the calendar, as resolved by stipulation approved by the court by order signed October 2, 2013.

15. [12-39517](#)-B-13 THOMAS/LISA TRIPLETT OBJECTION TO CLAIM OF  
JPJ-2 ALLIANCEONE RECEIVABLES MGMT,  
CLAIM NUMBER 9  
8-8-13 [[48](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 9, filed on March 25, 2013, by AllianceOne Receivables Management in the amount of \$111.93 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-government claim was March 6, 2013, and to file a government claim was May 6, 2013.

The Claim was filed on March 25, 2013.

The court will issue a minute order.

16. [08-36019](#)-B-13 JUDD/GINA URBAN MOTION FOR COMPENSATION FOR  
PGM-10 PETER G. MACALUSO, DEBTORS'  
ATTORNEY(S), FEES: \$5,750.00,  
EXPENSES: \$511.00  
9-9-13 [[141](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted to the extent set forth herein. The application is approved in the amount of \$5750.00 in fees and \$511.00 in costs, for a total of \$6261.00, to be paid by the trustee through the plan as an administrative expense to the extent that funds are available in the hands of the trustee to do so. Any excess may be collected directly from the debtors to the extent that such direct collection is permitted under 11 U.S.C. §§ 362 and 524.

On November 3, 2008, the debtors filed a chapter 13 petition. As part of confirmation of the debtor's chapter 13 plan, applicant consented to compensation in accordance with the Guidelines for Payment of Attorney's Fees in Chapter 13 Cases. This court authorized payment of fees and costs totaling \$3,500.00 through the plan. (Dkt. 76). The court previously granted the applicant's application for approval of additional fees the amount of \$1000.00 for additional services related to the chapter 13 bankruptcy case. The debtors' attorney now seeks additional compensation, in the amount of \$5750.00 in fees and \$511.00 in costs, related to prosecution of an associated adversary proceeding on behalf of the debtors.

As set forth in the attorney's application, the requested fees are reasonable compensation for actual, necessary and beneficial services. The court finds that the amount of work applicant has done in this case is sufficient greater than a "typical" chapter 13 case so as to justify additional compensation under the Guidelines. In re Pedersen, 229 B.R. 445 (Bankr. E.D. Cal. 1999) (J. McManus).

The court will issue a minute order.

17. [13-30219](#)-B-13 RAGHBIR SINGH AND OBJECTION TO CONFIRMATION OF  
JPJ-1 RAMINDERJEET PELIA PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[15](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed August 1, 2013, is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before October 22, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

18. [13-27721](#)-B-13 KEVIN/KRISTIN HIGHBAUGH MOTION TO VALUE COLLATERAL OF  
BSJ-1 BANK OF AMERICA, N.A.  
8-27-13 [[30](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of America, N.A.'s ("BofA") claim in this case secured by the second deed of trust on real property located at 1641 Prentiss Drive, Roseville, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$259,659.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Chase Home Finance with a balance of approximately \$342,000.00 thus, the value of the collateral available to BofA on its second deed of trust is \$0.00.

The court will issue a minute order.

19. [13-21922](#)-B-13 GEORGE KNOOP MOTION TO CONFIRM PLAN  
DJC-3 8-22-13 [[73](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted and the amended plan filed August 22, 2013, will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

20. [10-24623](#)-B-13 WILLIAM HUBBELL  
SJJ-5

MOTION FOR HARDSHIP DISCHARGE  
8-28-13 [[66](#)]

**Tentative Ruling:** Pursuant to 11 U.S.C. § 1328(b), the motion is granted, and the clerk shall enter the debtor's discharge upon satisfaction of the following condition(s): On or before October 24, 2013, the debtor shall pay to the trustee the lump sum of \$2,099.00. Pursuant to Fed. R. Bankr. P. 4007(d), the court establishes December 6, 2013, as the deadline to file a complaint to determine dischargeability of a debt under 11 U.S.C. § 523(a)(6). On or before October 18, 2013, the clerk shall cause notice of that deadline to be mailed to all creditors. Except as so ordered, the motion is denied.

The court finds that the debtors have satisfied the requirements of 11 U.S.C. § 1328(b).

The court will issue a minute order.

21. [13-26023](#)-B-13 GARY/MELISSA BURNS  
MRL-2

MOTION TO CONFIRM PLAN  
8-15-13 [[62](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted and the amended plan filed August 15, 2013, will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

22. [11-23724](#)-B-13 DANH NGO AND HUONG TRAN  
RWF-7

MOTION TO APPROVE LOAN  
MODIFICATION  
9-6-13 [[98](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The debtors are authorized to incur credit on the terms set forth in the Home Affordable Modification Agreement filed as Exhibit "A" to the motion (Dkt. 102).

The court will issue a minute order.

23. [13-22923](#)-B-13 PGM-4 RUDY HEURTELOU AND WENDY LAU OBJECTION TO CLAIM OF ONEWEST BANK FSB, CLAIM NUMBER 2 AND/OR MOTION FOR COMPENSATION FOR PETER G. MACALUSO, DEBTORS' ATTORNEY(S), FEES: \$1,500.00, EXPENSES: \$0.00  
8-16-13 [[65](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is continued to October 22, 2013, at 9:32 a.m.

24. [13-22923](#)-B-13 PGM-5 RUDY HEURTELOU AND WENDY LAU OBJECTION TO CLAIM OF CITIMORTGAGE, INC., CLAIM NUMBER 9 AND/OR MOTION FOR COMPENSATION FOR PETER G. MACALUSO, DEBTORS' ATTORNEY(S), FEES: \$1,500.00, EXPENSES: \$0.00  
8-16-13 [[70](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is continued to October 22, 2013, at 9:32 a.m.

25. [13-22923](#)-B-13 PGM-6 RUDY HEURTELOU AND WENDY LAU OBJECTION TO CLAIM OF NATIONSTAR MORTGAGE, CLAIM NUMBER 5 AND/OR MOTION FOR COMPENSATION FOR PETER G. MACALUSO, DEBTORS' ATTORNEY(S), FEES: \$1,500.00, EXPENSES: \$0.00  
8-16-13 [[76](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is continued to October 22, 2013, at 9:32 a.m.

26. [13-22923](#)-B-13 PGM-7 RUDY HEURTELOU AND WENDY LAU MOTION TO VALUE COLLATERAL OF JPMORGAN CHASE BANK, N.A.  
9-3-13 [[90](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court

in rendering a decision on this matter.

The motion is continued to October 22, 2013, at 9:32 a.m.

27. [11-24225](#)-B-13 THOMAS/LAURA EDWARDS MOTION TO SELL  
ACW-2 9-4-13 [[62](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is dismissed without prejudice.

The motion was not properly served. First, this motion to sell property of the estate other than in the ordinary course of business was not served on all creditors, as required by Fed. R. Bankr. P. 2002(a)(2). Second, the motion was not served on the correct chapter 13 trustee. The debtors' proof of service (Dkt. 66) shows that chapter 13 trustee Russell Greer was served with the motion. The chapter 13 trustee assigned to this case is Jan Johnson.

The court will issue a minute order.

28. [09-41729](#)-B-13 WILLIE/STACY BAKER MOTION TO VALUE COLLATERAL OF  
JT-6 SPECIALIZED LOAN SERVICING, LLC  
9-6-13 [[78](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of New York's claim in this case secured by the second deed of trust on real property located at 6075 Oleander Lane, Marysville, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$129,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Bank of New York Mellon with a balance of approximately \$237,000.00 thus, the value of the collateral available to Bank of New York on its second deed of trust is \$0.00.

The court will issue a minute order.

29. [12-35129](#)-B-13 ANTHONY TEXIERA MOTION TO CONFIRM PLAN  
SJJ-4 8-20-13 [[108](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The

motion to confirm the amended plan filed August 13, 2013, is denied.

The court will issue a minute order.

30. [12-35129](#)-B-13 ANTHONY TEXIERA COUNTER MOTION TO DISMISS CASE  
SJJ-4 9-24-13 [[114](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

31. [13-28429](#)-B-13 DARYL/ANJOINETTE CRYER MOTION TO CONFIRM PLAN  
JT-1 8-16-13 [[19](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed August 16, 2013, is denied.

The court will issue a minute order.

32. [13-28429](#)-B-13 DARYL/ANJOINETTE CRYER COUNTER MOTION TO DISMISS CASE  
JT-1 9-23-13 [[29](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before October 22, 2013, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

33. [12-26930](#)-B-13 ALFRED/MONICA SALAZAR MOTION TO MODIFY PLAN  
CAH-1 8-30-13 [[44](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed August 30, 2013, is denied.

The court will issue a minute order.

34. [12-39430](#)-B-13 ZAKIA SHEHADEH OBJECTION TO CLAIM OF PG&E,  
JPJ-3 CLAIM NUMBER 26  
8-8-13 [[136](#)]  
CASE DISMISSED 8/13/13

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The objection is dismissed.

The objection is moot. The bankruptcy case was dismissed by order entered August 13, 2013 (Dkt. 141).

The court will issue a minute order.

35. [13-30430](#)-B-13 PAUL/DEBRA KESTERSON OBJECTION TO CONFIRMATION OF  
JPJ-1 PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-12-13 [[16](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are overruled. The trustee's motion to dismiss is denied. The plan filed August 7, 2013, will be confirmed.

The trustee's objections are overruled for the reasons set forth in the debtors' response filed September 13, 2013 (Dkt. 23).

The court will issue a minute order overruling the trustee's objection and denying his motion to dismiss. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

The court will issue a minute order.

36. [13-30333](#)-B-13 MICHAEL/SUZANNE FINCH OBJECTION TO CONFIRMATION OF  
JPJ-1 PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[16](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is continued to November 19, 2013, at 9:32 a.m., to be heard after the hearing on the debtors' motion to value the collateral of Chase Home Finance.

Court will issue a minute order.

37. [13-27034](#)-B-13 NANCY LOPEZ MOTION TO CONFIRM PLAN  
SJS-1 8-20-13 [[29](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed August 20, 2013, is denied.

The court will issue a minute order.

38. [13-27034](#)-B-13 NANCY LOPEZ COUNTER MOTION TO DISMISS CASE  
SJS-1 9-24-13 [[37](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

39. [13-29735](#)-B-13 IRA ROSS  
PD-1

AMENDED OBJECTION TO  
CONFIRMATION OF PLAN BY WELLS  
FARGO BANK, N.A.  
9-23-13 [[33](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The objection is dismissed without prejudice.

Local Bankruptcy Rule 3015-1(c)(4) provides that standalone objections to confirmation of Chapter 13 plans "shall be set for hearing on the confirmation hearing date and time designated in the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors & Deadlines." In this case, the effort mentioned notice did not set forth any date for a hearing on objection to confirmation, as the debtor did not timely file the plan so that it could be served on the parties in interest with the notice. In this case, the debtor must proceed to confirmation by filing and setting for hearing a motion to confirm the plan, as required by LBR 3015-1(c)(3) and (d)(1). Therefore, the objection is dismissed without prejudice to the creditor filing an opposition to the debtor's motion to confirm, when and if such a motion is filed.

The court will issue a minute order.

40. [11-30437](#)-B-13 JEFF STRANGER  
EJS-8

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF ERIC J. SCHWAB  
FOR ERIC JOHN SCHWAB, DEBTOR'S  
ATTORNEY(S), FEES: \$6,745.00,  
EXPENSES: \$0.00  
8-29-13 [[159](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The application is granted to the extent set forth herein. Pursuant to 11 U.S.C. § 330, the application is approved on an interim basis for the period of February 8, 2010, through August 23, 2012, in the amount of \$9245.00 in fees and \$0.00 in costs, for a total of \$9245.00. Applicant is authorized to apply \$2500.00 from the balance in his trust account to the allowed fees and costs. The balance of the approved fees and costs shall be paid by the trustee through the chapter 13 plan as an administrative expense to the extent that funds are available in the hands of the trustee to do so. Any excess may be collected directly from the debtor to the extent that such direct collection is permitted under 11 U.S.C. §§ 362 and 524. Except as so ordered, the motion is denied.

On April 27, 2011, the debtor filed a chapter 13 petition. The debtor's attorney seeks compensation for services for the period of purity 2010, through August 23, 2012, equaling \$9245.00 in fees and costs. As set

forth in the attorney's application, the approved fees are reasonable compensation for actual, necessary and beneficial services, including pre-petition services rendered prior to March 28, 2013. In re Busetta-Silvia, 314 B.R. 218 (B.A.P. 10th Cir. 2004).

The court will issue a minute order.

41. [13-20339](#)-B-13 CONRAD ELLERBY MOTION TO MODIFY PLAN  
MET-8 8-24-13 [[106](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed August 24, 2013, is confirmed.

The court will issue a minute order.

42. [13-27439](#)-B-13 PAUL/MERLE URCIAGA CONTINUED MOTION TO VALUE  
JTN-1 COLLATERAL OF WELLS FARGO BANK,  
NATIONAL ASSOCIATION  
7-3-13 [[14](#)]

**Tentative Ruling:** This motion continued from September 24, 2013, and previously from August 13, 2013, to allow the debtor and Wells Fargo Bank, N.A. to resolve the motion by stipulation. As of 9:46 a.m. on October 7, 2013, no stipulation or other document evidencing a settlement has been filed with the court. The court now issues the following tentative ruling.

The motion to value Wells Fargo Bank, N.A.'s collateral is continued to a final evidentiary hearing on November 20, 2013 at 2:00 p.m. before the Honorable David E. Russell in courtroom 32.

On or before November 13, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before November 13, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value

Collateral of Wells Fargo Bank, N.A.. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [[www.tabbies.com](http://www.tabbies.com)] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) - for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.

43. [13-27439](#)-B-13 PAUL/MERLE URCIAGA CONTINUED MOTION TO CONFIRM  
JTN-2 PLAN  
7-23-13 [[35](#)]

**Tentative Ruling:** The motion is continued to December 10, 2013, at 9:32 a.m., to be heard after the hearing on the debtors' motion to value the collateral of Wells Fargo Bank, DCN JTN-2.

The court will issue a minute order.

44. [13-30339](#)-B-13 MICHAEL/JOYCE BONANNO OBJECTION TO CONFIRMATION OF  
GSD-1 PLAN BY COMMUNITY COMMERCE BANK  
9-11-13 [[55](#)]

**Tentative Ruling:** The creditor's objections to confirmation are dismissed. The creditor's request to dismiss the case is denied without prejudice.

The creditor's objections to confirmation are moot. On October 3, 2013, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

As for the creditor's request for dismissal of the case, the request is denied without prejudice because the creditor has not effectively presented sufficient evidence to support its argument. The creditor requests dismissal on the ground of bad faith. In connection with the issue of the debtors' alleged bad faith, the creditor requests that the court take judicial notice of the creditor's prior pleadings arguing bad faith in opposition to the debtors' motion for an extension of the automatic stay in this case and the court's ruling denying that motion. However, the court can only take judicial notice of adjudicative facts as defined in Fed. R. Evid. 201(b). The creditor's arguments and allegation contained in other filings are not such facts. If the creditor believes that there are adjudicative facts for judicial notice, the creditor must



47. [12-28241](#)-B-13 LISA JOINER  
CA-2

MOTION TO APPROVE SHORT SALE  
9-17-13 [[31](#)]

**Tentative Ruling:** The court issues the following abbreviated tentative ruling.

The motion is dismissed without prejudice.

The motion is not ripe. The debtor seeks authorization from the court to short sell real property located at 1670 Ashford Drive, Roseville, CA 95661 (the "Property") to Deborah Peter for \$300,000.00. The debtor, however, has failed to submit evidence that there is an actual short sale that can occur after court approval. The debtor has attached as Exhibit A to her motion a copy of a letter from Wells Fargo Home Mortgage ("Wells Fargo") approving the short sale of the Property (Dkt. 34). Section Three of the letter states that Wells Fargo agrees to pay \$6,000.00 to CitiMortgage, the holder of the second deed of trust on the Property. However, the letter clearly states that this payoff is contingent upon separate written approval of the transaction by each lien holder. The debtor has provided no evidence the Citimortgage deems this acceptable to satisfy its lien. Therefore, there is no evidence thta an actual short sale can close after court approval. It appears that the debtor simply seeking a court order "pre-approving" a short sale to which the necessary creditors may or may not agree. The court has no jurisdiction to issue such an order in the absence of an actual case or controversy.

The court will issue a minute order.

48. [13-29942](#)-B-13 CAROL/FREDERICK BLAS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[15](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection regarding the debtors' failure to appear at the section 341(a) meeting of creditors is dismissed. The trustee's remaining objections are sustained. Confirmation of the plan filed July 29, 2013 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before October 22, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The trustee's objection regarding the debtors' failure to appear at the section 341(a) meeting of creditors is dismissed as moot because the docket shows

that, although the debtors failed to appear at the initial meeting of creditors held on September 5, 2013 at 9:00 a.m., the debtors appeared at the meeting of creditors that was continued to September 19, 2013 at 10:00 a.m.

The trustee's other objections are sustained for the reasons set forth therein.

The court will issue a minute order.

49. [12-22143](#)-B-13 RAYMOND GARCIA MOTION TO MODIFY PLAN  
RI-1 8-19-13 [[35](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed August 19, 2013 (Dkt. 38) is confirmed.

The court will issue a minute order.

50. [13-24744](#)-B-13 JOAQUIN MOQUETTE MOTION TO CONFIRM PLAN  
JMC-3 8-13-13 [[51](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed August 13, 2013 (Dkt. 55) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

51. [10-51845](#)-B-13 VICENTE/GABRIELA ROSAS MOTION TO SELL  
SS-3 9-11-13 [[33](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance, the court issues the following tentative ruling.

The motion is granted in part. The debtors are authorized to short sell real property located at 9775 Roedell Way, Elk Grove, CA 95624 ("Property") to CCF Ventures on the terms set forth in the California Residential Purchase Agreement And Joint Escrow Instructions attached as Exhibit 1 to the motion (Dkt. 36, p.3), provided that the court's ruling does not authorize sale of the Property to any other purchaser, does not

authorize sale of the Property free and clear of liens and does not require any lienholder to reconvey or release its interest in the Property unless it has voluntarily agreed to do so. Except as so ordered, the motion is denied.

The court will issue a minute order.

52. [13-28247](#)-B-13 PAUL/ESTHER SILVA MOTION TO VALUE COLLATERAL OF  
PLC-2 UNION BANK, N.A.  
9-4-13 [[43](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Union Bank, N.A.'s claim secured by the second deed of trust on real property located at 42329 Daniel Street, Knights Landing, CA 95645 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$135,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Wells Fargo Home Mortgage with a balance of approximately \$174,043.00. Thus, the value of the collateral available to Union Bank, N.A. on its second deed of trust is \$0.00.

The court will issue a minute order.

53. [13-29447](#)-B-13 JOSEPHINE TOLLESON CONTINUED OBJECTION TO  
APN-1 CONFIRMATION OF PLAN BY PNC  
BANK, N.A.  
8-26-13 [[24](#)]

**Tentative Ruling:** This matter is continued to December 17, 2013 at 9:32 a.m.

54. [13-29447](#)-B-13 JOSEPHINE TOLLESON MOTION TO VALUE COLLATERAL OF  
WSS-1 PNC BANK  
8-26-13 [[17](#)]

**Tentative Ruling:** The motion is continued to a final evidentiary hearing on November 27, 2013, at 10:00 a.m. before the Honorable David E. Russell in courtroom 32.

On or before November 20, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one

set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before November 20, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value Collateral of PNC Bank. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [[www.tabbies.com](http://www.tabbies.com)] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.

55. [13-29747](#)-B-13 YANETA LACEY CONTINUED OBJECTION TO  
JPJ-1 CONFIRMATION OF PLAN BY JAN P.  
JOHNSON TRUSTEE  
9-5-13 [[15](#)]

**Tentative Ruling:** The trustee's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the plan filed July 25, 2013 (Dkt. 5) is denied.

The court will issue a minute order.

56. [12-32149](#)-B-13 MICHAEL/DIANE REBEIRO OBJECTION TO CLAIM OF  
JPJ-1 DEPARTMENT OF EDUCATION/MOHELA,  
CLAIM NUMBER 11  
8-8-13 [[49](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 11, filed on July 1, 2013 by the Department of Education/Mohela in the amount of \$7,819.00 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-government

claim was October 31, 2012. The last date to file a government claim was December 26, 2012. The Claim was filed on July 1, 2013.

The court will issue a minute order.

57. [13-29152](#)-B-13 AIDA DELA CRUZ OBJECTION TO DEBTOR'S CLAIM OF  
JPJ-2 EXEMPTIONS  
9-4-13 [[37](#)]

**Tentative Ruling:** The trustee's objection is sustained, and the debtor's claims of exemption under Cal. Code Civ. Proc. § 703.140(b) are disallowed.

The debtor cannot claim exemptions under Cal. Code Civ. Proc. § 703.140(b) because the debtor has not filed a correct Spousal Waiver of Right to Claim Exemptions pursuant to Cal. Code Civ. Proc. § 703.140(a)(2). Cal. Code Civ. Proc. § 703.140(a)(2) states that both the husband and wife must effectively waive in writing the right to claim, during the period the case commenced by filing the petition is pending, exemptions other than those provided for under Cal. Code Civ. Proc. § 703.140(b). C.C.P. § 703.140(a)(2). This is supported by the Eastern District of California's official spousal waiver form, Form EDC 3-060, which contains a space for both the debtor and his/her non-filing spouse to sign. Here, the debtor's Spousal Waiver of Right to Claim Exemptions (Dkt. 48), filed on October 1, 2013, has only been signed by her husband Arturo Dela Cruz. The debtor has failed to comply with C.C.P. § 703.140(a)(2) and her claims of exemption pursuant to Cal. Code Civ. Proc. § 703.140(b) are disallowed.

The court will issue a minute order.

58. [13-30052](#)-B-13 KEVIN BRACY OBJECTION TO CONFIRMATION OF  
PLAN BY STERLING JEWELERS, INC.  
9-12-13 [[22](#)]

**Tentative Ruling:** The creditor's objection is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The creditor's objection is sustained. Confirmation of the plan filed July 31, 2013 (Dkt. 5) is denied.

The creditor timely filed a secured proof of claim on August 16, 2013 in the amount of \$6,591.25. Pursuant to section 2.04 of the chapter 13 plan, "the proof of claim, not this plan or the schedules, shall determine the amount and classification of a claim unless the court's disposition of a claim objection, valuation motion, or lien avoidance motion affects the amount or classification of the claim." Therefore, the debtor's plan fails to properly classify and provide for the creditor's secured claim.

The court will issue a minute order.

59. [13-30052](#)-B-13 KEVIN BRACY  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[19](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection regarding the debtor's failure to appear at the section 341(a) meeting of creditors is dismissed. The trustee's remaining objections are sustained. Confirmation of the plan filed July 31, 2013 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The trustee's objection regarding the debtor's failure to appear at the section 341(a) meeting of creditors is dismissed as moot because the docket shows that, although the debtor failed to appear at the initial meeting of creditors adjourned on September 5, 2013, the debtor appeared at the meeting of creditors that was continued to September 19, 2013.

The trustee's other objections are sustained for the reasons set forth therein.

The court will issue a minute order.

60. [13-29153](#)-B-13 YEVGENIY ZHILOVSKIY  
JPJ-3

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
9-4-13 [[38](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection is dismissed.

The trustee's objection is moot. The bankruptcy case was dismissed by order entered on September 30, 2013 (Dkt. 48) because the debtor is ineligible to be a chapter 13 debtor.

The court will issue a minute order.

61. [11-24658](#)-B-13 STEVEN/LYNN BOCCA  
JPJ-3

OBJECTION TO CLAIM OF MIDLAND  
CREDIT MANAGEMENT, CLAIM NUMBER  
2 AND 17  
8-8-13 [[105](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 17, filed on June 16, 2011 by Midland Credit Management in the amount of \$8,423.53 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

A proof of claim executed and filed in accordance with the Federal Rules of Bankruptcy Procedure ("FRBP") constitutes prima facie evidence of the validity and amount of a claim. FRBP 3001(f). However, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. Litton Loan Servicing, LP v. Garvida (In re Garvida), 347 B.R. 697 (9th Cir. BAP 2006).

The trustee alleges without dispute and has provided evidence that the Claim is a duplicate of claim no. 2, which was filed on March 9, 2011 by Midland Credit Management in the amount of \$8,423.53. The trustee's evidence has rebutted the prima facie validity of the Claim and, by failing to respond to the objection, Midland Credit Management has failed to carry its burden of proving the Claim's validity.

The court will issue a minute order.

62. [13-27958](#)-B-13 PENNY PARKER  
ULC-3

MOTION TO CONFIRM PLAN  
8-20-13 [[41](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed August 15, 2013 (Dkt. 38) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

63. [13-22961](#)-B-13 TUBAYA/DEBORAH CARTER  
PGM-2

MOTION TO MODIFY PLAN  
8-23-13 [[51](#)]

**Tentative Ruling:** The trustee's opposition is sustained. The creditor Bank of New York Mellon ("BNYM")'s opposition is sustained. The motion

to confirm the modified plan filed August 23, 2013 (Dkt. 55) is denied.

Regarding the plan's proposed treatment of BNYM's secured claim, a plan may "modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims." 11 U.S.C. § 1322(b)(2). Modification of a claim secured only by a security interest in real property that is the debtor's principal residence can occur only as permitted by the exceptions to 11 U.S.C. § 1322(b)(2) found in 11 U.S.C. §§ 1322(b)(5) and (c)(2). Here, BNYM is the holder of the first deed of trust secured by the real property located at 4600 Chamberlin Circle, Elk Grove, CA 95757 ("Property"). The debtors' voluntary chapter 13 petition lists the Property as their primary residence. The modified plan proposes to modify BNYM's secured claim in ways that are not permitted under 11 U.S.C. § 1322(b)(5) and (c)(2), contingent upon BNYM's approval of a loan modification that has been proposed by the debtors. BNYM, which filed a separate opposition to confirmation of the modified plan, has repeatedly stated that it opposes treatment of its secured claim pursuant to a loan modification that it is yet to approve. Therefore, the modified plan violates the anti-modification provision of § 1322(b)(2) and cannot be confirmed.

The court will issue a minute order.

64. [13-32363](#)-B-13 EUNICE DIXON  
MRL-1

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
9-23-13 [8]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of America, N.A.'s claim secured by the second deed of trust on real property located at 9336 Newfound Way, Elk Grove, CA 95758 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$140,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Seterus Inc. with a balance of approximately \$141,044.00. Thus, the value of the collateral available to Bank of America, N.A. on its second deed of trust is \$0.00.

The court will issue a minute order.

65. [12-39472](#)-B-13 SANDY ROTHOVE  
JPJ-1

OBJECTION TO CLAIM OF  
CITIFINANCIAL, CLAIM NUMBER 20  
8-8-13 [[27](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 20, filed on March 8, 2013 by CitiFinancial, Inc. in the amount of \$6,463.24 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-government claim was March 6, 2013. The Claim was filed on March 8, 2013.

The court will issue a minute order.

66. [13-30372](#)-B-13 LORI ALVARADO  
APN-1

OBJECTION TO CONFIRMATION OF  
PLAN BY WESTLAKE FINANCIAL  
SERVICES  
9-9-13 [[24](#)]

**Tentative Ruling:** The creditor's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The creditor's first and second objections are sustained. The creditor's remaining objections are overruled without prejudice. Confirmation of the plan filed August 6, 2013 (Dkt. 5) is denied.

The creditor's objection that the debtors are not proposing a sufficient interest rate to be paid on its claim through the plan is overruled without prejudice because the creditor fails to identify specific risk factors justifying an increase in the interest rate of 4.00% per annum proposed by the debtors. Till et ux. v. SCS Credit Corp., 541 U.S. 465, 124 S.Ct. 1951, 1955-56, 158 L.Ed.2d 787 (2004) directs this court, in assessing plan confirmation, to conduct a present value calculation as of the effective date of the plan by starting with the risk free rate and adjusting upward for appropriate risk factors. Appropriate risk factors include the "circumstances of the estate, the nature of the security, and the duration and feasibility of the reorganization plan." Id. at 479. Till places the burden on the creditor to show that an upward adjustment is necessary. Id. at 479. The creditor does not address any of the foregoing factors.

The court will issue a minute order.

67. [13-30372](#)-B-13 LORI ALVARADO  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[28](#)]

**Tentative Ruling:** The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection is sustained. Confirmation of the plan filed August 6, 2013 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

68. [12-40278](#)-B-13 FRED/JENNIFER RAMOS  
PLG-4

CONTINUED MOTION TO CONFIRM  
PLAN  
8-12-13 [[77](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's opposition is sustained. The motion to confirm the amended plan filed August 15, 2013 (Dkt. 84), is denied. The trustee's countermotion is conditionally denied, the conditions being that on or before October 8, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

69. [13-25079](#)-B-13 MEGAN/ADAM ENOS  
MRL-2

COUNTER MOTION TO DISMISS CASE  
9-24-13 [[58](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(1)(B). The court issues the following abbreviated tentative ruling.

The trustee's countermotion is conditionally denied, the conditions being

that on or before October 22, 2013, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

70. [13-25079](#)-B-13 MEGAN/ADAM ENOS MOTION TO CONFIRM PLAN  
MRL-2 8-15-13 [[50](#)]

**Tentative Ruling:** The trustee's opposition is sustained. The motion to confirm the plan filed August 15, 2013 (Dkt. 53) is denied.

The debtors' reply is not supported by any evidence that refutes the assertions set forth in the trustee's opposition. Specifically, the debtors claim that they have paid off all delinquencies under the plan but have failed to produce evidence, e.g., a copy of a check or a receipt, to support their claim. Additionally, they state that their liquidation analysis pursuant to 11 U.S.C. § 1325(a)(4) is based on an appraisal that they received on the real property located at 7200 Dieppe Way, Sacramento, CA 95842 ("Property"). However, they have not included with their reply a copy of the appraisal report or amended their schedules to reflect a change in the fair market value of the Property.

The court will issue a minute order.

71. [11-23880](#)-B-13 GLORIA ABER MOTION TO APPROVE LOAN  
MDA-2 MODIFICATION  
9-12-13 [[41](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The debtor is authorized to enter into the loan modification with Wells Fargo Bank, N.A. on the terms set forth in the Loan Modification Agreement submitted as Exhibit A to the motion (Dkt. 44, p.3).

The court will issue a minute order.

72. [13-31481](#)-B-13 CARLOS/ELIZABETH CHAVEZ MOTION TO VALUE COLLATERAL OF  
CAH-2 PNC BANK, N.A.  
9-6-13 [[14](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of PNC Bank, N.A.'s claim secured by the second deed of trust on real property located at 3116 Machan Court, Elk Grove, CA 95757 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$245,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Ocwen Loan Servicing, LLC with a balance of approximately \$352,574.00. Thus, the value of the collateral available to PNC Bank, N.A. on its second deed of trust is \$0.00.

The court will issue a minute order.

73. [13-27583](#)-B-13 ANDREW LUU MOTION TO VALUE COLLATERAL OF  
RK-2 OCWEN LOAN SERVICING  
8-28-13 [[39](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Ocwen Loan Servicing's claim secured by the second deed of trust on real property located at 5012 Lotus Pong Way, Elk Grove, CA 95757 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$410,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by American Home Mortgage with a balance of approximately \$416,983.00. Thus, the value of the collateral available to Ocwen Loan Servicing on its second deed of trust is \$0.00.

The court will issue a minute order.

74. [12-33384](#)-B-13 CHRISTOPHER BARMBY AND CONTINUED OBJECTION TO CLAIM OF  
CJY-2 MADELYNN MCCLAIN JP MORGAN CHASE BANK N.A.,  
CLAIM NUMBER 8  
7-19-13 [[34](#)]  
WITHDRAWN BY M.P.

**Disposition Without Oral Argument:** The objection has been withdrawn (Dkt. 45) and is removed from the calendar.

75. [11-25286](#)-B-13 TANYA WINSEN

MOTION TO AVOID LIEN OF NORTH  
STAR CAPITAL ACQUISITION LLC  
8-28-13 [[51](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A) [subject to the provisions of 11 U.S.C. § 349]. The judicial lien in favor of North Star Capital Acquisition, LLC, recorded in the official records of Sacramento County, File No. 08-55980-0, is avoided as against the real property located at 4830 Dover Lane #302, Sacramento, CA 95842.

The subject real property has a value of \$100,000.00 as of the date of the petition. The unavoidable liens total \$295,000.00. The debtor claimed the property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which she exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing is avoided.

The court will issue a minute order.

76. [12-41182](#)-B-13 MARIA ABELAYE  
CAH-2

MOTION TO MODIFY PLAN  
8-15-13 [[27](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed August 15, 2013 (Dkt. 31) is confirmed.

The court will issue a minute order.

77. [12-36083](#)-B-13 KURRAN/RHONDA BOGLIN  
PGM-2

MOTION TO MODIFY PLAN  
8-30-13 [[60](#)]

**Tentative Ruling:** The trustee's opposition is sustained. The motion to confirm the modified plan filed August 30, 2013 (Dkt. 59) is denied.

The trustee states that the modified plan will take more than sixty (60) months to complete due to the fact that a priority tax claim in the amount of

\$2,553.80 is currently scheduled in the amount of \$1.00. The debtors seek to remedy this by withdrawing the proof of claim it filed on behalf of the Franchise Tax Board ("FTB") on July 15, 2013 in the amount of \$3,000.00. Pursuant to Fed. R. Bankr. P. 3006, "a creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule..." Fed. R. Bankr. P. 3006. The rule does not give the debtors the express authority to withdraw the FTB's proof of claim, regardless of the fact that they filed the proof of claim on the FTB's behalf. Therefore, the debtors' purported withdrawal of the FTB claim is ineffective.

The trustee's remaining grounds for opposition are sustained for the reasons stated in the trustee's opposition.

The court will issue a minute order.

78. [12-27385](#)-B-13 SCOTT/JANE SHUMAKER MOTION TO MODIFY PLAN  
SDS-2 9-3-13 [[60](#)]

**Tentative Ruling:** The court issues the following abbreviated tentative ruling.

The motion to confirm the modified plan filed September 3, 2013 (Dkt. 62) is denied.

The motion to confirm the modified plan is denied because the debtors have not carried their burden of establishing all of the plan confirmation requirements of 11 U.S.C. § 1325(a). See LBR 9014-1(d)(6); Chinichian v. Campolongo, 784 F.2d 1440, 1443-1444, (9th Cir.1986) ("For a court to confirm a plan, each of the requirements of section 1325 must be present and the debtor has the burden of proving that each element has been met."). The court also has an independent duty to confirm only plans that comply with the requirements of the Bankruptcy Code. See United Student Aid Funds, Inc. v. Espinosa, 130 S. Ct. 1367, 1380, 176 L. Ed. 2d 158, 173 n.14 (2010) ("Failure to comply with this [ §§ 1328(a)(2) and 523(a)(8) ] self-executing requirement should prevent confirmation of the plan even if the creditor fails to object, or to appear in the proceeding at all."); see also In re Dynamic Brokers, Inc., 293 B.R. 489, 499 (B.A.P. 9th Cir. 2003) (citing Everett v. Perez, 30 F.3d 1209, 1213 (9th Cir. 1994)).

Here, both the motion and declaration fail to supply any analysis whatsoever of the plan proposed for confirmation or to supply any evidence to establish all of the plan confirmation requirements of 11 U.S.C. § 1325(a). The documents simply set forth the proposed modification. This is insufficient evidence that the proposed modified plan satisfies the plan confirmation requirements of 11 U.S.C. § 1325(a). As such, the debtors have failed to meet their burden of proof and the motion to confirm the modified plan is denied.

The court will issue a minute order.

79. [10-49887](#)-B-13 KIMBERLY SOUZA  
JT-2

MOTION TO MODIFY PLAN  
8-21-13 [[28](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed August 21, 2013 (Dkt. 30) is confirmed.

The court will issue a minute order.

80. [13-30391](#)-B-13 JOANNE VONDRACEK  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
9-10-13 [[36](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained for the reasons set forth therein. Confirmation of the plan filed August 6, 2013 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before October 22, 2013, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

81. [13-30391](#)-B-13 JOANNE VONDRACEK  
NMB-1

OBJECTION TO CONFIRMATION OF  
PLAN BY WELLS FARGO BANK, N.A.  
9-10-13 [[33](#)]

**Tentative Ruling:** The creditor's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The creditor's objections are sustained for the reasons set forth therein. Confirmation of the plan filed August 6, 2013 (Dkt. 5) is denied.

The court will issue a minute order.

82. [13-30991](#)-B-13 ROBERT/ALICE SCHIEBERL  
JT-1

MOTION TO VALUE COLLATERAL OF  
SAFE CREDIT UNION  
9-3-13 [[18](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Safe Credit Union's claim secured by the second deed of trust on real property located at 215 Shady Valley Court, Rio Linda, CA 95673 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$153,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Safe Credit Union with a balance of approximately \$222,470.00. Thus, the value of the collateral available to Safe Credit Union on its second deed of trust is \$0.00.

The court will issue a minute order.

83. [13-29992](#)-B-13 JUAN COLEMAN  
RCO-1

OBJECTION TO CONFIRMATION OF  
PLAN BY BANK OF AMERICA, N.A.  
9-12-13 [[16](#)]

**Tentative Ruling:** The creditor's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The creditor's objections are sustained for the reasons set forth therein. Confirmation of the plan filed July 30, 2013 (Dkt. 5) is denied.

The court awards no fees and costs to the creditor because it has not established that the value of its collateral exceeds the amount of its claim. 11 U.S.C. § 506(b).

The court will issue a minute order.

84. [13-28694](#)-B-13 BRANDEN BELL  
WW-1

CONTINUED MOTION TO CONFIRM  
PLAN  
8-9-13 [[21](#)]

**Tentative Ruling:** None.

85. [13-28694](#)-B-13 BRANDEN BELL  
WW-2

MOTION TO VALUE COLLATERAL OF  
INTERNAL REVENUE SERVICE  
9-5-13 [[27](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

This objection has been withdrawn, and it is dropped from the calendar.

The moving party withdrew this objection on October 1, 2013 (Dkt. 39).

The court will issue a minute order.

86. [13-31095](#)-B-13 GEOFFREY GREITZER  
DBJ-1

MOTION TO VALUE COLLATERAL OF  
ATL HOLDINGS, LLC  
9-6-13 [[9](#)]

**Tentative Ruling:** The motion is continued to a final evidentiary hearing on November 27, 2013, at 2:00 p.m. before the Honorable David E. Russell in courtroom 32.

On or before November 20, 2013, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The debtor's binder tabs shall be consecutively numbered, commencing at number 1. The respondent's binder tabs shall be consecutively lettered, commencing at letter A. On or before November 20, 2013, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Hearing on Debtor's Motion to Value Collateral of ATL Holdings, LLC. In addition to the tabs, the hearing exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [[www.tabbies.com](http://www.tabbies.com)] - debtors' stock number 58093 and creditors' stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the hearing one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony.

The court will issue a minute order.