

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 23, 2017 at 2:00 p.m.

1. 17-22310-A-13 CAROLINE HEGARTY MOTION TO
JPJ-2 CONVERT OR TO DISMISS CASE
9-15-17 [68]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. There is no objection to the relief requested and the court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

The motion will be granted and the case converted to one under chapter 7.

The debtor proposed but was unable to confirm two proposed plan. More than two months have lapsed since the court denied confirmation of the most recent plan but the debtor has not proposed a new plan. Thus, there is cause to dismiss or convert the case to one under chapter 7, whichever is in the best interests of creditors. See 11 U.S.C. § 1307(c)(1).

After a review of the schedules, the court concludes that conversion rather than dismissal is in the best interests of creditors because there is in excess of \$2 million of equity in unencumbered, nonexempt assets that will benefit creditors if liquidated by a trustee.

2. 17-22655-A-13 AARON/MONICA PETERSEN MOTION TO
JPJ-2 DISMISS CASE
9-28-17 [36]

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

This case was filed on April 21, 2017. The debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The court's order denying confirmation was filed on September 7. 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).

Also, the debtor has failed to pay to the trustee approximately \$8,350 as required by the last proposed plan. The inability of the debtor to confirm and a plan and make plan payments is prejudicial to creditors and suggests that no plan will be feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

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