

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

November 20, 2019 at 2:00 p.m.

1. [18-27524-E-11](#) **DAVID FOYIL** **CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
12-1-18 [1]**

Debtor's Atty: Pro Se

Notes:

Continued from 6/19/19

Operating Report filed: 7/14/19; 8/14/19; 9/14/19; 10/14/19

Plans / Amd Plans filed: 8/29/19; 8/30/19; 10/22/19

Disclosure Statements filed: 8/29/19; 8/30/19; 10/22/19

Order Approving Final Report and Account and Discharging Trustee [Chp 13] filed 7/1/19 [Dckt 120]

[RPM-1] Motion for Relief from the Automatic Stay and Request for Waiver of Fourteen Day Stay filed 8/22/19 [Dckt 137]; Order granting filed 10/1/19 [Dckt 168]

[DEF-9] Objection to Allowance of Claim [Internal Revenue Service] filed 9/19/19 [Dckt 156]; Order dismissing filed 10/28/19 [Dckt 199]

[DEF-8] Motion to Value Collateral of United States Treasury Dept (Internal Revenue Service) and California Franchise Tax Board filed 9/19/19 [Dckt 161]; Order denying filed 10/28/19 [Dckt 200]

[DEF-10] Order dismissing Motion to Approve the First Amended Disclosure Statement filed 10/29/19 [Dckt 201]

The Status Conference is continued to 2:00 p.m. on ~~XXXXXXXXXX~~, 2020.

NOVEMBER 20, 2019 STATUS CONFERENCE

This case was commenced on December 1, 2018, as a Chapter 13 case. This is the Debtor's

fourth bankruptcy case since October 29, 2014. The prior cases are: 14-30370, Chapter 11, Dismissed February 19, 2015; 16-22194, Chapter 11, Dismissed June 29, 2016; and 18-26678, Chapter 13, dismissed November 16, 2018. This case was converted to one under Chapter 11 pursuant to the motion of the debtor.

A Chapter 11 Plan and Disclosure Statement were filed, but dismissed. The Debtor in Possession and a creditor with a significant claim appear to have focused the issues concerning the claim. All monthly operating reports have been filed.

At the hearing, the Debtor in Possession reported **xxxxxxxxxx**

2. [17-26125-E-7](#) [19-2117](#) FIRST CAPITAL RETAIL,
LLC

STATUS CONFERENCE RE:
COMPLAINT
9-11-19 [1]

HUSTED V. ACE FUNDING SOURCE
LLC

Final Ruling: No appearance at the November 20, 2019 Status Conference is required.

Plaintiff's Atty: Aaron A. Avery
Defendant's Atty: unknown

Adv. Filed: 9/11/19
Answer: none

Nature of Action:
Recovery of money/property - preference
Recovery of money/property - fraudulent transfer
Recovery of money/property - other

Notes:
Ex Parte Application Approving Stipulation to Stay Date and Deadlines in Adversary Proceeding, and to Reschedule Adversary Proceeding Status Conference filed 11/5/19 [Dckt 6]; Order approving stipulation filed 11/8/19 [Dckt 10]

The Status Conference has been continued to 2:00 p.m. on March 4, 2020, pursuant to the prior order of the court (Dckt. 10).

3. [17-22333-E-7](#) **THOMAS WARREN**
[19-2098](#)

STATUS CONFERENCE RE:
COMPLAINT
7-30-19 [1]

WARREN V. CHILDE

Plaintiff's Atty: Lucas B. Garcia
Defendant's Atty: unknown

Adv. Filed: 7/30/19
Answer: none

Nature of Action:
Recovery of money/property - turnover of property

Notes:

The Status Conference is continued to 2:00 p.m. on XXXXXXXXXX, 2020.

This Adversary Proceeding was commenced on July 30, 2019, with the filing of the Complaint by the Chapter 13 Debtor. The bankruptcy case, 17-22333, was converted to one under Chapter 7 on August 31, 2019. The Complaint seeks the turnover of possession of real property in Auburn, California from Lorie Childe. Ms. Childe is identified as a former care giver of the Debtor who lived in the property with the Debtor. That relationship has ceased, there being a domestic dispute involving law enforcement and the Debtor being released to the custody of his sister after an evaluation by Adult Protective Services. As of the filing of the Complaint, it was alleged that Ms. Childe had continued in possession of the property, which is property of the bankruptcy estate, and failed to turn it over to the Debtor, as the then Chapter 13 debtor fiduciary of the bankruptcy estate.

No certificate of service has been filed. The Trustee has employed a real estate broker to market the property. 17-22333; Order, Dckt. 157. It is not clear from the record whether the Trustee has obtained possession of the property from Ms. Childe or whether the Trustee needs to be substituted in as the real party in interest in this Adversary Proceeding.

At the Status Conference, Counsel for Plaintiff-Debtor reported XXXXXXXXXX

4. [11-44540-E-13](#) **MERCEDES PEREZ**
[18-2041](#)

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
3-15-19 [29]

**PEREZ V. STOCKTON MORTGAGE ET
AL**

Plaintiff's Atty: Peter L. Cianchetta
Defendants' Atty: unknown

Adv. Filed: 4/5/18
Answer: none
Amd. Cmplt. Filed: 3/15/19
Answer: none

Nature of Action:
Declaratory judgment
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:
Continued from 9/25/19

[RHS-1] Order discharging Order to Show Cause filed 10/1/19 [Dckt 40]

The Status Conference is xxxxxxxxxxxx

NOVEMBER 20, 2019 STATUS CONFERENCE

At the hearing on the Court's September 26, 2019 Order to Show Cause in this Adversary Proceeding, counsel for Plaintiff advised the court that Plaintiff would be dismissing this Adversary Proceeding without prejudice and conduct discovery in the bankruptcy case to identify the real parties in interest for the claim and lien at issue.

At the November 20, 2019 Status Conference, this Adversary Proceeding not yet having been dismissed, counsel for Plaintiff reported xxxxxxxxxxxx

Prosecution of Adversary Proceeding

At the March 25, 2019 Continued Status Conference, Counsel for Plaintiff-Debtor reported that he is conducting discovery to identify the correct trustees for the defendants and then the amended complaint (which presumably would have to amended again to name the correct trustees) would be served. Civil Minutes, Dckt. 32.

Then seventy-five (75) days after the Amended Complaint had been filed, on May 29, 2019, the court held a further Continued Status Conference. The updated status report that was filed by Plaintiff-Debtor provides the following information:

1. Plaintiff amended the complaint, has a Subpoena out to obtain service addresses for the Defendants.
2. Plaintiff will likely have the Summons re-issued again because the service address for the amended Defendants has yet to be ascertained.
3. Plaintiff requests the Status Conference be continued 60 days to allow for service of the Summons and opportunity for Defendants to answer.

Dckt. 31. Counsel for Plaintiff reported at the further Continued Status Conference that he was still trying to identify the defendants that the Plaintiff-Debtor should be suing. Civil Minutes, Dckt. 33. The court then continued the Status Conference to August 21, 2019.

The August 21, 2019 Continued Status Conference, which was one-hundred fifty-nine (159) days after the Amended Complaint was filed, was conducted. No appearance was made by Counsel for Plaintiff-Debtor. No updated Status Report was filed by Counsel for Plaintiff-Debtor. Nothing has been filed in this Adversary Proceeding by Plaintiff-Debtor indicating that this Adversary Proceeding is being prosecuted.

At the hearing September 26, 2019 hearing on the Court's Order to Show Cause (Civil Minutes, Dckt. 39), Plaintiff's counsel advised the court that he was dismissing this Complaint without prejudice, having now determined that more work will be required in the bankruptcy case before he and the Plaintiffs can proceed with this adversary proceeding against the correct parties. The court discharged the Order to Show Cause. Order, Dckt. 40.

As of the Court's November 15, 2019 review of the Docket in preparation of the continued Status Conference, Plaintiff had not dismissed this Adversary Proceeding.

ITRIA VENTURES LLC V. NALAJALA

Plaintiff's Atty: David M. Riley; C. Kevin Kobbe
Defendant's Atty: Brian L. Coggins

Adv. Filed: 8/1/19
Answer: 8/30/19

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud

Notes:
Application for Admission to Practice Pro Hac Vice filed 9/20/19 [Dckt 8]; Order granting filed 9/22/19 [Dckt 9]

Joint Discovery Plan filed 10/16/19 [Dckt 10]

The Status Conference is ~~XXXXXXXXXX~~

SU
MMARY OF COMPLAINT

Itria Ventures, LLC ("Plaintiff") commenced this Adversary Proceeding on August 1, 2019, with the filing of a Complaint (Dckt. 1) for the nondischargeability of debt, the claims and alleged grounds stated therein summarized by the court as follows:

- A. Plaintiff was contacted in early 2018 by Defendant-Debtor, who requested funding for Sri Vasamma, Inc. ("SVI"), a company owned by Defendant-Debtor which operated a business known as "Desi Bazaar."
- B. Defendant-Debtor provided Plaintiff with financial information relating to SVI.
- C. Based on the information provided by Defendant-Debtor and understanding that SVI would continue to operate the business, Plaintiff provided funding to SVI.
- D. Under the terms of the financing, SVI granted Plaintiff a security interest in all property used in SVI's business and Plaintiff filed a financing statement with the Secretary of State.
- E. Under the terms of the financing, SVI was to remit a specified portion of future revenues to Plaintiff, with ACH transfers thereon to be made daily.
- F. Defendant-Debtor personally guaranteed the obligation of SVI to Plaintiff.
- G. Defendant-Debtor executed the SVI agreement with Plaintiff for the financing on behalf of

SVI and as the guarantor.

H. In early March 2018, SVI defaulted on the agreement and failed to remit the revenues to Plaintiff.

I. In March 2018, Defendant-Debtor created a new corporation which Defendant-Debtor is the 100% owner. All of the assets of SVI were transferred into this new corporation, without the consent of Plaintiff.

J. The new corporation is operating the “Desi Bazaar” business at the same address as SVI operated that business.

K. On April 19, 2019, Plaintiff obtained a judgment in the New York trial court against SVI and Defendant-Debtor on the obligation owed under the agreement with SVI.

L. It is further alleged that both SVI and Defendant-Debtor made specified misrepresentations in connection with the agreement for financing to be provided by Plaintiff.

M. Defendant-Debtor was the sole owner and managing agent of SVI and exercised control over SVI and the monies loaded by Plaintiff to SVI.

N. Defendant-Debtor performed all of the act for SVI in obtaining the financing from Plaintiff and made all of the alleged misrepresentations on behalf of SVI.

O. The Complaint seeks a determination that Defendant-Debtor’s obligation on the New York Judgment is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A) and § 523(a)(2)(B).

SUMMARY OF ANSWER

Krishnaprasad Nalajala (“Defendant-Debtor”) has filed an answer that admits and denies specific allegations in the Complaint. Dckt. 7.

JOINT DISCOVERY PLAN

The parties filed their Joint Discovery Plan on October 16, 2019. Dckt. 11. In the Discovery Plan the Parties state the dates and deadlines set forth by the court below.

FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff Itria Ventures, LLC alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), that this is a core proceeding pursuant to 28 U.S.C. § 157(b), and that Plaintiff consents the bankruptcy court entering all orders and the final judgment in this Adversary Proceeding to the extent that any matters are non-core. Complaint ¶¶ 3, 4, 6 Dckt. 1. In the Answer, Defendant-Debtor Krishnaprasad Nalajala admits the allegations of jurisdiction, that this is a core proceedings, and consents to the bankruptcy court entering all orders and the final judgment in this Adversary Proceeding to the extent that any matters are non-core. Answer ¶¶ 3, 4, 6, Dckt. 7. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties**

consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff Itria Ventures, LLC alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), that this is a core proceeding pursuant to 28 U.S.C. § 157(b), and that Plaintiff consents the bankruptcy court entering all orders and the final judgment in this Adversary Proceeding to the extent that any matters are non-core. Complaint ¶¶ 3, 4, 6 Dckt. 1. In the Answer, Defendant-Debtor Krishnaprasad Nalajala admits the allegations of jurisdiction, that this is a core proceedings, and consents to the bankruptcy court entering all orders and the final judgment in this Adversary Proceeding to the extent that any matters are non-core. Answer ¶¶ 3, 4, 6, Dckt. 7. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**
- b. Initial Disclosures shall be made on or before **October 21, 2019**.
- c. Motions to Join Additional Parties filed and served on or before **October 31, 2019**.
- d. Motions to Amend Pleadings filed and served on or before **October 31, 2019**.
- e. Expert Witnesses shall be disclosed on or before -----, **2020**, and Expert Witness Reports, if any, shall be exchanged on or before **January 10, 2020**.
- f. Discovery closes, including the hearing of all discovery motions, on **February 10, 2020**.
- g. Dispositive Motions shall be heard before **March 27, 2020**.^{FN. 1}

FN. 1. The court has adjusted this date so that it is consist with the court’s March 2020 law and motion calendar dates.

- h. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on April 22, 2020**.

6. [19-24755-E-13](#) **HOWARD REDMOND**
[19-2111](#)

STATUS CONFERENCE RE:
COMPLAINT
9-11-19 [1]

**REDMOND V. ACCREDITED HOME
LENDERS INC. ET AL**

Plaintiff's Atty: Pro Se
Defendant's Atty: unknown

Adv. Filed: 9/11/19
Answer: none

Nature of Action:
Recovery of money/property - turnover of property

Notes:

The Status Conference is continued to 2:00 p.m. on January 9, 2020.

The Complaint Adversary Proceeding was filed on September 11, 2019, with the Plaintiff identified in the caption as "Kai'la Cynthia Redmond: Family of Redmond as Heir apparent for Howard James Redmond Sr, Plaintiff/Debtor." Dckt. 1 at 1. The Complaint states that it is an action to avoid a preferential transfer as provided in 11 U.S.C. § 547(a)(b). *Id.*

The bankruptcy case to which this Adversary Proceeding relates is Case No. 19-24755, for which Howard James Redmond, Sr. is the named Debtor, with the bankruptcy case filed in *pro se*. The Bankruptcy Petition is not signed by Mr. Redmond, but by "Kaila Cynthia Redmond, Heir-Apparent." 19-24755; Petition, Dckt. 1 at 6.

The Chapter 13 bankruptcy case filed in the name of Howard James Redmond, Sr. was dismissed on September 27, 2019. *Id.* at 30.

The bankruptcy case for Mr. Redmond was dismissed on September 27, 2019. *Id.*; Order, Dckt. 30. In the court's Civil Minutes for the hearing on the dismissal, the court addresses the estate of a decedent not being a proper bankruptcy estate debtor, there being no plan advanced, reviews the Complaint in this Adversary Proceeding, and a related District Court action that has been dismissed. *Id.*; Dckt. 29. A copy of the Docket in the District Court Action is attached as an exhibit to the Complaint.

The related District Court Action is titled *Hakeim El By v. Accredited Home Lenders, Inc. and Wells Fargo Bank*. E.D. Cal. 17-02237. Judgment was entered for the defendants in the District Court Action. Orders and Findings, E.D. Cal. 17-02237; Dckts. 44, 43, 42. The findings include:

A. Plaintiff Hakeim El Bey was dead. The family members who appeared at the Status Conference were Kalia El Bey and Brian El Bey. *Id.*; Dckt. 21 Minutes.

B. The family members were given thirty days to obtain counsel and seek an order substituting in as a personal representative as permitted under L.R. 230 and the Federal Rules of Civil Procedure. The court addressed that an executor or representative of an estate of a decedent cannot appear in *pro se*.

C. The thirty days expired and no substitution was sought.

D. The judgment was to dismiss the District Court Action without prejudice.

In this Adversary Proceeding, Kai'la Cynthia Redmond states under penalty of perjury that Howard Redmond Sr. was also known as Hakeim El Bey, the decedent identified in the District Court Action. Affidavit, ¶ 3; Dckt. 19.

Federal Court Jurisdiction for Adversary Proceeding

Congress has provided in 28 U.S.C. § 1334 for federal court jurisdiction for matters arising under the Bankruptcy Code, in a bankruptcy case, and related to a bankruptcy case. The present Complaint asserts a claim to avoid a preferential transfer, which may be exercised by a bankruptcy trustee, debtor in possession, or Chapter 13 debtor. Here, the bankruptcy case has been dismissed and there is no party having standing to seek to exercise the avoiding powers arising under the Bankruptcy Code.

The court shall issue an order to show cause why this Adversary Proceeding should not be dismissed for lack of federal court jurisdiction.

New Chapter 7 Case Purported To Have Been Filed by Howard James Redmond, Sr.

The court notes that on September 30, 2019, a Chapter 7 case is purported to have been filed by the deceased Howard James Redmond, Sr. That case was randomly assigned to the Hon. Christopher D. Jaime, a judge of this court. Bankr. E.D. Cal. 19-26110.

The Petition purports to have the signature of "Howard James Redmond, Sr." 19-26110; Petition, Dckt. 1 at 6. The "Redmond signature" in case 19-26110 looks strikingly similar to the Kaila Cynthia Redmond, Heir Apparent, in case 19-24775.

In Case 19-26110, the under the "Redmond signature," the word "Debtor" is crossed out and the word "Creditor" is written in. It is not clear how "Howard James Redmond, Sr." would be purporting to sign a bankruptcy petition as a "creditor" or how a "creditor" could sign such a petition. For each signature block on the Petition, Schedules, and Statement of Financial Affairs, the "Redmond signature" is identified as a "Creditor" signature. *Id.*; Dckt. 1.

For Case 19-26110, the Certificate of Counseling states that "Kaila Redmond received from \$0\$ BK Class Inc. the briefing that complies with 11 U.S.C. § 109(h) and 111. 19-26110; Certificate, Dckt. 1 at 9.

In connection with Case 19-26110, a Complaint has been filed by Kai'la Redmond, in which

“Howard James Redmond, Sr. is named as the Plaintiff and the defendants are Accredited Home Lenders, Inc., American Brokers Conduit Corporation The Servicing Company, et al. Bankr. E.D. Cal. Adv. 19-2136. The basis for the Complaint is to avoid a preferential transfer as provided in 11 U.S.C. § 547. In a Chapter 7 case, such power may only be exercised by the bankruptcy trustee. Neither Howard James Redmond, Sr. nor Kai’la Redmond are the Trustee in Bankruptcy Case 19-26110.

Debtor's Atty: Arasto Farsad

Notes:

Continued from 8/21/19

Operating Reports filed: 9/15/19 [Jul], 9/16/19, 10/12/19, 11/11/19

[AF-7] *Ex Parte* Application for an Order Authorizing Employment of Bookkeeping and Accounting Service filed 8/26/19 [Dckt 60]; Order granting filed 8/29/19 [Dckt 63]

[AF-5] Order granting Motion to Approve Loan Modification filed 10/1/19 [Dckt 69]

[AF-6] Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof filed 10/1/19 [Dckt 70]; set for hearing 1/8/20 at 11:30 a.m.

[RPM-1] Motion for Relief from the Automatic Stay and Request for Waiver of Fourteen Day Stay filed 10/8/19 [Dckt 74]; set for 11/14/19

Stipulation Re: Treatment of Creditor's Claim Under Debtor's Chapter 11 Plan of Reorganization filed 11/13/19 [Dckt 83]

The Status Conference is continued to 2:00 p.m. on ~~XXXXXXXXXX~~, 2010

NOVEMBER 20, 2019 STATUS CONFERENCE

The most recent Monthly Operating Report is for October 2019, which was timely filed on November 11, 2019. For the Month of October 2019, the Debtor in Possession reports having \$38,716 in income and (\$33,303) in expenses, including (\$17,598) paid in Salaries and Commissions. A profit and loss statement is attached. Dckt. 82.

On November 13, 2019, a Stipulation for Creditor of Claim was filed. Dckt. 83. The creditor is identified as Deutsche Bank National Trust Company, as Trustee. The Stipulation is untethered to any Motion or proposed plan.

At the Status Conference, counsel for the Debtor in Possession reported ~~XXXXXXXXXX~~

AUGUST 21, 2019 STATUS CONFERENCE

This case was filed on April 25, 2019. On June 19, 2019, a Monthly Operating Report was filed for the May 2019. The Debtor in Possession reports having “Income” of \$35,413.00. Dckt. 27 at 4. From that Debtor has spent (\$18,287) for “living expenses.” No information is provided as to how the Debtor in Possession has (\$18,287) in monthly living expense and what they are.

The bank statement attached to the Monthly Operating Report shows the Debtor in Possession taking cash withdrawals from the Estate’s bankruptcy account in the Month of May as follows:

(\$1,500).....May 6, 2019
(\$4,000).....May 10, 2019
(\$ 750).....May 13, 2019
(\$ 15).....May 13, 2019
(\$1,000).....May 13, 2019
(\$ 500).....May 20, 2019
(\$ 500).....May 6, 2019
(\$ 500).....May 9, 2019
(\$ 500).....May 13, 2019
(\$ 600).....May 22, 2019
(\$ 500).....May 23, 2019

This does not include the various EFT purchases or checks written. The copies of the checks attached to the Monthly Operating Report are largely illegible.

Additionally, the statement shows monies being transferred to another checking account, which is not listed as an account of the Bankruptcy Estate.

On Amended Schedule A/B Debtor states that he has no interests in any business or entities. Dckt. 48.

On Amended Schedule I Debtor states that he has Net Income of \$8,748.00 from rental property or business, \$1,565, in Social Security, and \$132 in VA benefits. Dckt. 29 at 5. For the Non-Debtor spouse, Debtor states additional income of \$6,000 a month, from which there are \$1,124.72 a month in withholding. *Id.* Debtor’s monthly income, before non-debtor withholding, is \$16,445.00, which is \$197,340 in annual income on which taxes are computed.

On Schedule I Debtor states that his employer is Hillside Place II, for which he is a “Licensee/Administrator.” The non-debtor spouse’s employer is also identified as Hillside Place II and the non-debtor spouse’s occupation is listed as “Administrator.”

Attached to Amended Schedule J is a Business Income and Expense Statement. *Id.* at 9. On that Debtor lists monthly gross income of \$33,000. The three major expenses are payroll of (\$13,100) a month, payroll taxes of (\$1,052), and insurance of (\$950) a month. *Id.*

At the bottom of the Expenses for the *business* is a (\$2,400) a month expense for “food/groceries.” *Id.*

July 2019 Monthly Operating Report

The July Report (Dckt. 58) provides some additional information. Two rental properties are listed, for which no income is stated. Dckt. 58 at 3. For income, Debtor in Possession states \$53,717 for the month and for “living and operating” expenses lists (\$42,078) for the month.

On the Profit and Loss Statement attached to the July Monthly Operating Report, two businesses are listed as residential care facilities: “D' Hillside Place II and JT Evergreen.” *Id.* at 5. These “business expenses” paid by the Debtor in Possession from the property of the Bankruptcy Estate include three mortgage payments totaling (\$5,618), car payments totaling (\$2,560), and food expense of (\$1,613.00). *Id.*

Amended Statement of Financial Affairs

On the Amended Statement of Financial Affairs Debtor states he is operating two sole proprietorships – “Hillside Place II” and “JT Evergreen Care Home.” Dckt. 50 at 8.

Review of Claims Filed

The Internal Revenue Service has filed Proof of Claim No. 1 in the amount of (\$219,253.24). Of this (\$123,486) is asserted to be secured, (\$90,427.71) as unsecured priority, and the balance as general unsecured. The Internal Revenue Service Claims are for:

FICA and FUTA taxes for 2008 through 2013 totaling (\$123,496.79).....Secured

Income, FICA, and FUTA taxes for 2014 through 2019 totaling (\$90,427.71).....Priority

FICA taxes for 2014 totaling (\$5,328.74)....General Unsecured

Deutsche Bank National Trust Company, as Trustee (“DBNT”), has filed Proof of Claim No. 5 asserting a secured claim for (\$427,918.45). For this claim there is an asserted pre-petition arrearage of (\$95,027.81). The collateral securing this property is the 103 Michael Court Property. On Schedule A/B Debtor states this property to have a value of \$415,000. Dckt. 48. At 4. Debtor describes this property as:

Debtor's investment property located at: 103 Michael Ct, Vallejo, CA 94591;

Property description: A 1,752 sq ft single family home w/ 4br, 2ba, situated on 0.31AC of land; Property title vested solely in Debtor's name as a Fee Simple interest; Current fair market value determined from verbal Broker Price Opinion of Broker/Realtor Ramon L. Gil (CA BRE No. 0633530) on April 1, 2019. Property was upgraded to 7 bedrooms, 3.5 baths, with permits for the Care Home

U.S. Bank, N.A., as Trustee, has filed Proof of Claim No. 6 asserting a secured claim for (\$232,594.45). For this claim there is an asserted pre-petition arrearage of (\$29,458.31). The collateral

securing this claim is 115 Michael Court Property. On Schedule A/B Debtor states the value of this property to be \$400,000. *Id.* at 5. Debtor describes this property as:

Debtor's primary residence located at: 115 Michael Ct, Vallejo, CA 94591;

Property description: A 2,155 sq ft single family home w/ 5br, 3.5ba, situated on 0.170AC of land; Property title vested solely in Debtor's name as a Fee Simple interest; Current fair market value determined from verbal Broker Price Opinion of Broker/Realtor Ramon L. Gil (CA BRE No. 0633530) on April 1, 2019.

MAY 29, 2019 STATUS CONFERENCE

STATUS CONFERENCE SUMMARY

This Chapter 11 case was filed by the Debtor, Juanito Copero, on April 25, 2019. Debtor had a prior Chapter 13 case that was filed on June 11, 2018, and February 11, 2019. 18-23639. The court extended the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) by order filed on May 10, 2019.

On May 16, 2019, counsel for the Debtor in Possession filed a Status Report. Dckt. 31. Income for the Debtor comes from operating “care homes for the elderly in Vallejo, California, and have average income of \$16,349.78 a month.

Debtor suffered financially from a 2013 divorce. It is explained that the Debtor’s Chapter 13 case was dismissed due to his loss of income to fund the plan when he had to travel overseas to assist family and he had to hire extra staff to run the business.

At the Status Conference counsel for the Debtor in Possession reported that the meeting with the U.S. Trustee was concluded on May 29, 2019.

MONTHLY OPERATING REPORT SUMMARY

The bankruptcy case being filed on April 25, 2019 and this status conference being conducted on May 29, 2019, there has not been a monthly operating report filed for the several days in April.

8. [12-23669-E-7](#) CYNTHIA MARAL
[19-2079](#)

**CONTINUED STATUS CONFERENCE
RE: COMPLAINT
7-2-19 [1]**

FUKUSHIMA V. BOHANNAN

Plaintiff's Atty: J. Russell Cunningham
Defendant's Atty: Mark A. Wolff

Adv. Filed: 7/2/19
Answer: 7/29/19

Nature of Action:
Approval of sale of property of estate and of a co-owner

Notes:
Continued from 9/25/19, the Parties reporting that this matter has been settled, with the documentation thereof being in process.

The Status Conference is continued to 2:00 p.m. on XXXXXXXXXX, 2020.

NOVEMBER 20, 2019 STATUS CONFERENCE

No further status report or other document has been filed since the court was notified in September 2019 that the parties were documenting a settlement of this Adversary Proceeding.

At the Status Conference, Counsel for Plaintiff reported XXXXXXXXXX

SEPTEMBER 25, 2019 STATUS CONFERENCE

On July 2, 2019, Plaintiff-Trustee Alan Fukushima commenced this Adversary Proceeding to sell property of the Chapter 7 bankruptcy estate of Cynthia and the non-debtor co-owner interests in such property. The Complaint alleges:

- A. The Debtor's Chapter 7 case was reopened when unscheduled assets were discovered so that they could be administered by the Plaintiff-Trustee.
- B. Defendant and Debtor were married in 2013 and divorced in 2017.
- C. Debtor obtained a judgment in the dissolution action to share in all of Defendant's assets.
- D. These assets include sixteen properties expressly identified in the Complaint.

E. The Plaintiff-Trustee seeks to obtain sales of the Estate's interests and Defendant's interests in the properties pursuant to 11 U.S.C. § 363(h) because a sale of the Estate's fractional interest is monetarily less than that percentage interest in the proceeds from a sale of 100% of the property.

Defendant Cheryl Bohannon filed her Answer on July 29, 2019. Dckt. 18. The Answer admits and denies specific allegations in the Complaint. While admitting federal court jurisdiction, Defendant states that she does not consent to the entry of final orders and judgment by the bankruptcy judge. Answer ¶ 1, Dckt. 18.

Federal Court jurisdiction exists for core and related matter proceedings pursuant to 28 U.S.C. § 1334. Congress grants exclusive federal court jurisdiction over property of the bankruptcy estate. 28 U.S.C. § 1334(e). Congress provides for the reference of all bankruptcy matters, core and related to non-core, to the bankruptcy judges in the district. 28 U.S.C. § 157(a). The bankruptcy judge shall hear such matters, unless the reference is withdrawn, and issue the final orders and judgment on the core matters and, if consent is given, the non-core related to matters. 28 U.S.C. § 157(b), *Wellness International Network, Ltd. v. Sharif*, ___ U.S. ___, 135 S. Ct. 1932 (2015); *Executive Benefits Insurance Agency v. Arkison*, 134 S. Ct. 2165 (2014); *Stern v. Stern v. Marshall*, 562 U.S. 462 (2013); , 86 S. Ct. 467, 15 L. Ed. 2d 391, and *Langenkamp v. Culp*, 498 U.S. 42 (1990); and *Katchen v. Landy*, 382 U.S. 323 (1966). (b).

As a matter of federal law enacted in the Bankruptcy Code by Congress, property of the bankruptcy estate is determined pursuant to 11 U.S.C. § 541 and is a core matter proceeding.

On August 23, 2019, the court issued an order appointing a Resolution Advocate for the Parties to this Adversary Proceeding. Dckt. 20.

No Status Conference Report has been provided by the Plaintiff-Trustee.

Continuance Requested

Counsel for Plaintiff-Trustee contacted the courtroom deputy for Department E and notified the court that this matter has been settled and the Parties would request that the Status Conference to be continued so they could document their settlement.

Debtor's Atty: John G. Downing

Notes:

[JGD-1] Motion to Extend Stay filed 10/10/19 [Dckt 14]; Order granting filed 10/28/19 [Dckt 22]

The Status Conference is continued to 2:00 p.m. on XXXXXXXXXX, 2020.**NOVEMBER 20, 2019 STATUS CONFERENCE**

This bankruptcy case was commenced on October 1, 2019. At the Status Conference, counsel for the Debtor in Possession (the court notes that no application has been filed for the Debtor in Possession to employ counsel) reported XXXXXXXXXX

SUMMARY OF SCHEDULES

Real Property Schedule A/B	FMV
Truckee Property	\$632,000

Personal Property Schedule B/B	FMV
2 Vehicles	\$12,000
Boat	\$5,000
2 Snowmobiles	\$700
Business Accounts Receivable	\$30,000
6 High Mileage Trucks	\$15,000

Secured Claims Schedule D	TOTAL CLAIM AMOUNT	FMV	UNSECURED CLAIM PORTION
Bayview Loan Servicing (Truckee Property)	(\$346,506)	\$632,000	\$0
IRS (Truckee Property)	(\$6,005,407)	Above	

PRIORITY UNSECURED CLAIMS SCHEDULE E/F	TOTAL CLAIM AMOUNT	PRIORITY	GENERAL UNSECURED
EDD	(\$131,903)	(\$102,000)	(\$29,903)
FTB	(\$790,803)		(\$790,803)

GENERAL UNSECURED CLAIMS SCHEDULE /FF	TOTAL CLAIMS AMOUNT	
	(\$72,996)	
David Silber		(\$31,000)
National Business Factors		(\$20,204)

INCOME, SCHEDULE I	
Total Average Monthly Income	
Wages	\$15,000
Deductions/Taxes	(\$2,830)

EXPENSES, SCHEDULE J	
Total Average Monthly Expenses	
Total for Family of Three (Debtor and Two Adult Dependent Children)	(\$4,116)
Rent/Mortgage	\$0
Food/Housekeeping Supplies	(\$600)
Transportation	(\$500)
Health Ins	(\$1,100)
Electricity/Heat/Gas	(\$699)

10. [19-20284-E-7](#) **DUANE/CAROL ZANON**
[19-2045](#)

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
4-1-19 [1]

**ZANON ET AL V. U.S. DEPARTMENT
OF EDUCATION**

Plaintiff's Atty: David N. Chandler
Defendant's Atty: unknown

Adv. Filed: 4/1/19
Answer: none

Nature of Action:
Dischargeability - student loan

Notes:
Continued from 8/21/19. The Plaintiff-Debtor stated that a dispute exists with the U.S. Attorney over service.

The Status Conference is continued to XXXXXXXXXX, 2020.

NOVEMBER 20, 2019 STATUS CONFERENCE

Nothing further has been filed since the August 21, 2019 Status Conference. Though eight months has passed since this Adversary Proceeding has been filed, it does not appear that Plaintiff-Debtor is prosecuting the action.

At the Status Conference, Counsel for Plaintiff-Debtor reported XXXXXXXXXX

AUGUST 21, 2019 STATUS CONFERENCE

The Reissued Summons was issued by the Clerk of the Court on June 4, 2019. Dckt. 10. A Certificate of Service for the Reissued Summons, Complaint, and Notice of Status Conference was filed on June 10, 2019. Dckt. 12.

No answer or other responsive pleading has been filed. No request for entry of default has been made by Plaintiff.

At the Status Conference Plaintiff-Debtor states that a dispute exists with the U.S. Attorney over service.

JUNE 19, 2019 STATUS CONFERENCE

On June 3, 2019, Plaintiff filed a request for an “Alias Summons,” the stated reason being “additional service addresses.” Dckt. 10.

On June 4, 2019, the Clerk issued a Reissued Summons, for which the Status Conference in this Adversary Proceeding was reset to 2:00 p.m. on August 21, 2019.

MAY 29, 2019 STATUS CONFERENCE

The Status Conference is continued to 2:00 p.m. on June 19, 2019, as stated in the Reissued Summons. Dckt. 7.

SUMMARY OF COMPLAINT

Duane Zanon and Carol Zanon (Plaintiff-Debtor) filed a Complaint to Determine the Dischargeability of student loan debt. Dckt. 1. The allegations in the Complaint are summarized as follows:

1. Plaintiff-Debtor has guaranteed the student loan of their son (the primary obligor).
2. Plaintiff-Debtor is of retirement age and cannot maintain a minimal standard of living if obligated to pay the student loan obligation.
3. Plaintiff-Debtor has incurred significant financial obligations/expenses in addressing a health issue concerning their son. Their son is unable to pay the student loan.
4. Plaintiff-Debtor's sole source of income is retirement payments and Social Security.
5. Plaintiff-Debtor projects no significant increase in income in the foreseeable future.

SERVICE OF COMPLAINT

On May 1, 2019, Plaintiff-Debtor filed a Certificate of Service attesting to the service of the Complaint and Reissued Summons on May 1, 2019. Dckt. 8. The Reissued Summons reset the Status Conference date for 2:00 p.m. on June 19, 2019. Dckt. 7.

SUMMARY OF ANSWER

No Answer has been filed.

11. [18-26585-E-13](#) JULIAN PEREZ
[19-2087](#)

CONTINUED STATUS CONFERENCE
RE: COMPLAINT

U.S. TRUSTEE V. DAVIS 7-12-19 [1]

Final Ruling: No appearance at the November 20, 2019 Status Conference is required.

Plaintiff's Atty: Jason M. Blumberg
Defendant's Atty: Joseph Angelo

Adv. Filed: 7/12/19
Answer: none

Nature of Action:
Recovery of money/property - other
Injunctive relief - other

Judgment having been entered in this Adversary Proceeding (Dckt. 23), the Status Conference is concluded and removed from the Calendar.

Notes:

Continued from 9/25/19. Plaintiff U.S. Trustee requested continuance of the status conference to a date in November 2019, to allow for further investigation and service.

[UST-1] Motion of the United States Trustee for Leave to Take Immediate Discovery filed 9/26/19 [Dckt 9]; set for continued hearing 11/20/19 at 2:00 p.m.

[UST-2] Motion of the United States Trustee for Entry of Judgment Pursuant to Stipulation filed 10/25/19 [Dckt 19]; Judgment granting filed 10/27/19 [Dckt 23]

12. [18-26585-E-13](#) JULIAN PEREZ
[19-2087](#) UST-1
U.S. TRUSTEE V. DAVIS

CONTINUED MOTION FOR LEAVE TO
TAKE IMMEDIATE DISCOVERY
9-26-19 [9]

Final Ruling: No appearance at the November 20, 2019 hearing is required.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Defendant on September 26, 2019. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

The Motion for Leave to Take Immediate Discovery has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Leave to Take Immediate Discovery is dismissed without prejudice.

The Court having entered a Judgment pursuant to Stipulation on October 25, 2019, granted on October 27, 2019 and there being no further motions or other pending matters reflected on the Docket in this Adversary Proceeding or with respect to this Motion, the Motion is dismissed without prejudice.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Leave to Take Immediate Discovery filed by Plaintiff in this Adversary Proceeding, Davis (“Plaintiff”) having been presented to the court, judgment having been entered in this Adversary Proceeding, and good cause appearing,

IT IS ORDERED that the Motion is dismissed without prejudice.

13. [13-29685-E-13](#) YAROSLAV ZAKHARNEV AND STATUS CONFERENCE RE:
[19-2108](#) INNA PESHKOVA COMPLAINT
9-5-19 [1]

**ZAKHARNEV ET AL V. UMPQUA BANK
ADVERSARY PROCEEDING
DISMISSED: 10/31/2019**

Final Ruling: No appearance at the November 20, 2019 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 9/5/19
Answer: none

Nature of Action:
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

The Adversary Proceeding having been dismissed, the Status Conference is concluded and removed from the Calendar.

Notes:
Stipulation to Dismiss Adversary filed 10/28/19 [Dckt 8]; Order approving stipulation and dismissing adversary filed 10/31/19 [Dckt 9]

14. [13-23599-E-13](#) IVAN MONTELONGO
[19-2070](#)

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
6-3-19 [1]

MONTELONGO V. ABINANTI

Final Ruling: No appearance at the November 20, 2019 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 6/3/19
Answer: none

Nature of Action:
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

The Status Conference is continued to 2:00 p.m. on January 9, 2020, to allow the parties additional time to document their settlement and conclude this Adversary Proceeding.

On November 7, 2019, Plaintiff-Debtor filed a Second Status Report, advising the court that the Parties have ongoing settlement discussions and they request at least a 30 day continuance for the negotiations to be completed.

The court continues the Status Conference to January 2020, which should be sufficient for the parties to have the negotiations completed, the settlement documents, **and this adversary proceeding resolved.**

Notes:
Continued from 8/21/19

Plaintiff's Second Status Statement filed 11/7/19 [Dekt 11]