

1
2
3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
6
7

8 In re:)
9) Case No. 06-22625-B-13J
10 WILLIAM RESCHERT AND)
11 DESIE DEGUZMAN,) Docket Control No. DCR-1
12 Debtors.) Date: October 31, 2006
Time: 9:30 a.m.

13
14 On or after the calendar set forth above, the court issued
15 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

16 Because the ruling constitutes a "reasoned explanation" of
17 the court's decision under the E-Government Act of 2002 (the
18 "Act"), a copy of the ruling is hereby posted on the court's
Internet site, www.caeb.uscourts.gov, in a text-searchable
format, as required by the Act. However, this posting does not
constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19
20 **DISPOSITION AFTER ORAL ARGUMENT**

21 The trustee's objections are sustained, for the reasons stated in
22 the chapter 13 trustee's opposition. Countrywide's objection is
23 sustained. Countrywide's request to dismiss the case is denied
24 without prejudice. The debtors' motion is denied.

25 The debtors have failed to carry their burden of establishing the
26 requirements of 11 U.S.C. §§ 1325(a)(1), (a)(5) and (a)(6). The court
27 interprets Countrywide's objection as objecting to the reasonableness
28 of the cure period. The debtors have proposed to make what are

1 essentially de minimus payments on the arrearage for 24 months. Then
2 they propose to pay off the arrearage from a refinancing. Debtors
3 have presented no evidence to support this delay. Based on these
4 circumstances, the court finds that the plan fails to propose a cure
5 on Creditor's debt within a reasonable time. Steinacher v. Rojas (In
6 re Steinacher), 283 B.R. 768, 773 n. 13 (9th Cir. BAP 2002), United
7 Cal. Sav. Bank v. Martin (In re Martin), 156 B.R. 47, 50 (9th Cir. BAP
8 1993), Central Fed. Sav. & Loan Assn. v. King (In re King), 23 B.R.
9 779, 781 (9th Cir. BAP 1982).

10 In addition, the debtors have provided no evidence regarding the
11 real estate market in July 2008 or their ability to qualify for a
12 refinance at that time. Nor is there evidence that the debtors have
13 sufficient equity to fund the lump sum through a sale. The debtors
14 opine in their Schedule A that the property is worth \$590,000. They
15 schedule debt of \$514,320.00. After factoring in 8% costs of sale,
16 the amount remaining is a mere \$28,480. In the present softening real
17 estate market, that is insufficient to show feasibility. The proposed
18 sale or refinancing is speculative. Plan confirmation can be denied
19 for failing to satisfy one or more of the prerequisites of 11 U.S.C. §
20 1325. In re Padilla, 213 B.R. 349, 352 (9th Cir. BAP 1997); Keith M.
21 Lundin, Chapter 13 Bankruptcy, 3d. Ed. § 217.1 (2000 & Supp. 2004).