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2 UNITED STATES BANKRUPTCY COURT
3 EASTERN DISTRICT OF CALIFORNIA
4 MODESTO DIVISION
5

6 In re) Case No. 07-90112-A-13G
7 CHRISTOPHER BONORA,) Docket Control No. RDG-1
8) Date: May 14, 2007
9 Debtor.) Time: 2:00 p.m.
10)

11 *On May 14, 2007 at 2:00 p.m., the court considered the*
12 *chapter 13 trustee's objection to the confirmation of the*
13 *debtor's proposed chapter 13 plan and the debtor's response to*
14 *that objection. The court's ruling on the motion and the*
15 *opposition is appended to the minutes of the hearing. Because*
16 *that ruling constitutes a "reasoned explanation" of the court's*
17 *decision, it is also posted on the court's Internet site,*
18 *www.caeb.uscourts.gov, in a text-searchable format as required by*
19 *the E-Government Act of 2002. The official record, however,*
20 *remains the ruling appended to the minutes of the hearing.*

21 **FINAL RULING**

22 The objection will be sustained.

23 First, in violation of General Order 05-05 and an order
24 entered in this case on the date of filing, the debtor has failed
25 to provide the trustee with employer payment advices for the 60-
26 day period preceding the filing of the petition.

27 Second, 11 U.S.C. § 521(e) (2) (B) & (C) requires the court to
28 dismiss a petition if an individual chapter 7 or 13 debtor fails
to provide to the case trustee a copy of the debtor's federal
income tax return for the most recent tax year ending before the
filing of the petition and for which a federal income tax return
was filed. This return must be produced seven days prior to the
date first set for the meeting of creditors.

1 Here, because the federal income tax return for 2006 is not
2 yet due and because the debtor has not (according to the IRS's
3 objection) yet filed his 2006 return, the debtor should have
4 produced his 2005 federal income tax return.

5 The court acknowledges that some may consider section
6 521(e) (2) (A) to be ambiguous. One commentator has suggested that
7 section 521(e) (3) (A) "require[s] a tax return or transcript only
8 for the most recent year, and to not require it if no return was
9 required or filed in that year." See 4 Lawrence P. King, Collier
10 on Bankruptcy, ¶ 521.20 (15th ed. Rev. 2005); see also In re
11 Ring, 341 B.R. 387, 389 n.5 (Bankr. D. Me. 2006). However, the
12 legislative history indicates that the debtor must "provide the
13 trustee ... a copy of his or her Federal income tax return or
14 transcript (at the election of the debtor) for the latest taxable
15 period ending prior to the filing of the bankruptcy case for
16 which a tax return was filed."

17 See H.R. Rep. No. 109-31, pt. I, at 78 (2005), *reprinted in*
18 2005 U.S.C.C.A.N. 88. This court concludes that section
19 521(e) (2) (A) requires the return for the latest year preceding
20 the petition for which a return was filed. In this case, that is
21 the return for 2005.

22 The failure to provide the return to the trustee justifies
23 dismissal and denial of confirmation. In addition to the
24 requirement of section 521(e) (2) that the petition be dismissed,
25 an uncodified provision of the Bankruptcy Abuse Prevention and
26 Consumer Protection Act of 2005 found at section 1228(a) of that
27 Act provides that in chapter 11 and 13 cases the court shall not
28 confirm a plan of an individual debtor unless requested tax

1 documents have been turned over. This has not been done.

2 Third, according to Schedule J, the debtor owes a domestic
3 support obligation. General Order 05-03, ¶ 3(a) provides:

4 *The chapter 13 plan shall be completed and filed within*
5 *15 calendar days of the filing of the petition as*
6 *required by FRBP 3015(b) and Local Bankruptcy Rule*
7 *3015-1(a). The debtor or the debtor's attorney shall*
8 *serve the chapter 13 plan, all motions to value*
9 *collateral, and all motions to avoid liens, as well as*
10 *the statement of financial affairs and the schedules on*
11 *the Trustee. These documents, together with the*
12 *Domestic Support Obligation Checklist, Exhibit 3, and*
13 *the Class 1 Claim Checklist and Authorization to*
14 *Release Information required by subparagraph 5(c) (2)*
15 *below, must be received by the Trustee no later than 15*
16 *calendar days after the filing of the petition.*

17 The debtor failed to deliver to the trustee the Domestic
18 Support Obligation Checklist. This checklist is designed to
19 permit and assist the trustee in giving the notices required by
20 11 U.S.C. § 1302(d).

21 The trustee must provide a written notice both to the holder
22 of a claim for a domestic support obligation and to the state
23 child support enforcement agency. See 11 U.S.C. §§ 1302(d) (1) (A)
24 & (B). The state child support enforcement agency is the agency
25 established under sections 464 and 466 of the Social Security
26 Act. See 42 U.S.C. §§ 664 & 666. Section 1302(d) (1) (C) requires
27 a third, post-discharge notice to both the claim holder and the
28 state child support enforcement agency.

29 The trustee's notice to the claimant must: (a) advise the
30 holder that he or she is owed a domestic support obligation; (b)
31 advise the holder of the right to use the services of the state
32 child support enforcement agency for assistance in collecting
33 such claim; and (c) include the address and telephone number of
34 the state child support enforcement agency.

1 The trustee's notice to the State child support enforcement
2 agency required by section 1302(d)(1)(B) must: (a) advise the
3 agency of such a claim; and (b) advise the agency of the name,
4 address, and telephone number of the holder of such claim.

5 By failing to provide the checklist to the trustee, the
6 debtor has disregarded the order that it be provided, has
7 breached the duty to cooperate with the trustee imposed by 11
8 U.S.C. § 521(a)(3) & (a)(4), and has caused delay to the
9 prejudice of creditors. The court will not confirm a plan in a
10 case in which the debtor has breached these duties.

11 Finally, Schedule D identifies 26 secured claims, but the
12 plan provides for only three of them (see the additional
13 provisions). By failing to provide for the remainder, the plan
14 does not comply with 11 U.S.C. § 1325(a)(5).