

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA
3 SACRAMENTO DIVISION

4)
5 In re) Case No. 07-20971-A-13G
6 FELECIA DAVIS,) Docket Control No. RDG #1
7 Debtor.) Date: April 2, 2007
8) Time: 10:00 a.m.
9)

10 *On April 2, 2007 at 10:00 a.m., the court considered the*
11 *chapter 13 trustee's motion to dismiss the debtors' chapter 13*
12 *petition and the debtors' opposition to that motion. The court's*
13 *ruling on the motion and the opposition is appended to the*
14 *minutes of the hearing. Because that ruling constitutes a*
"reasoned explanation" of the court's decision, it is also posted
15 *on the court's Internet site, www.caeb.uscourts.gov, in a text-*
16 *searchable format as required by the E-Government Act of 2002.*
17 *The official record, however, remains the ruling appended to the*
18 *minutes of the hearing.*

19 **FINAL RULING**

20 The motion will be granted and the petition will be
21 dismissed.

22 The court disagrees with the assertion in the motion that
23 the plan is incomprehensible. On the contrary, the plan is clear
24 and easily understandable. The debtor is asking the court to
25 confirm a plan that requires her to pay nothing to the trustee
26 and that promises nothing to her secured creditors even though
27 she is not surrendering their collateral. This is not a mistake
28 nor does it reflect a lack of understanding about chapter 13.
After all, the debtor is represented by an attorney who regularly
appears in this court and who has filed chapter 13 plans for many
debtors.

The plan, however, is preposterous and patently

1 unconfirmable. This is so apparent that neither the debtor nor
2 her attorney have signed the proposed plan. The game being
3 played is obvious from the "additional provision" included on
4 page 5 at the end of the preprinted plan language. This
5 provision states: "Debtor is negotiating with lender to permit
6 short sale of real property located at 1642 Amanda Court,
7 Stockton CA within 60 days."

8 In other words, the debtor has no intention of paying
9 anything to the trustee from her future earnings as required by
10 11 U.S.C. § 1322(a)(1). She has filed a petition, then filed a
11 plan that is a plan in name only, for the sole purpose of
12 acquiring the automatic stay. Then, while protected, instead of
13 reorganizing, she is attempting to negotiate something with a
14 real estate lender that she could not compel in a legitimate
15 chapter 13 plan. She wishes to pay a secured claim for less than
16 is due to a lender secured by her home.

17 Filing a chapter 13 petition to acquire the automatic stay
18 and without intention of reorganizing is the epitome of bad
19 faith. This petition and the proposed plan have been filed in
20 bad faith. This would warrant denial of confirmation and it is
21 cause for dismissal of the petition. See 11 U.S.C. §§ 1307(c) &
22 1325(a)(3) & (a)(7).