

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

January 25, 2024 at 2:00 p.m.

1. <u>23-90111-E-11</u> MICHAEL HOFMANN <u>23-9006</u> CAE-1 HOFMANN V. HOFMANN ET AL	CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL 5-14-23 [1]	
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Items 1 thru 4

Plaintiff's Atty: Brian S. Haddix
Defendant's Atty: unknown

Adv. Filed: 5/14/23
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:
Continued from 9/28/23. The Subchapter V Trustee is pursuing a sale of the property.

JANUARY 25, 2024 STATUS CONFERENCE

The court has authorized the sale of the Debtor's interest in the two farmland properties. At the Status conference **XXXXXXX**

SEPTEMBER 28, 2023 STATUS CONFERENCE

In the Michael Hoffman Chapter 11 Case, the court is addressing the Debtor in Possession Motion to Confirm the proposed Plan and address the opposition to confirmation.

At the Status Conference, reported that this is still in a "holding pattern" while the Subchapter V Trustee is pursuing a sale of the Property.

The Status Conference is continued to 2:00 p.m. on January 25, 2024.

JULY 13, 2023 STATUS CONFERENCE

On May 14, 2023, the Debtor/Debtor in Possession removed a State Court Action involving substantial interests in real estate, litigated offsets, and the dissolution of common interests of family members. While the State Court litigation has been a long, expensive slog, it appears that in the related Bankruptcy Case, 23-90111, the Debtor/Debtor in Possession, the family member and non-family member opponents, and the Subchapter V Trustee appear to have found a process, using the Bankruptcy Code, to afford all parties in interest their fair “day in court,” compliance with orders of the State Court, and preservation of their respective values in the real properties at the center of their dispute and extensive litigation.

The court continues the Status Conference to September 28, 2023, in light of the efforts of the parties to address and resolve these issues without future litigation (or at least greatly reduce the issues to be litigated).

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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 Debtor, attorneys of record who have appeared in the bankruptcy case, and other parties in interest (lienholder), on December 27, 2023. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

The Motion to Avoid Judicial Lien 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 to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of John P. Brichetto individually and as trustee of the John and Jacqueline Brichetto 2008 Revocable Trust dated May 7, 2008 ("Creditor") against property of the debtor, Michael Hofmann ("Debtor") commonly known as 13330 Valley Home Rd, Valley Home, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$206,625. Exhibit D, Dckt. 200. An abstract of judgment was recorded with Stanislaus County on May 5, 2022, that encumbers the Property. *Id.*

On Schedule A filed by Debtor, the value of the Debtor's interest (8.33%) in the 13330 Valley Home Rd Property is stated to have a value of \$43,600.00 as of the petition date. Dckt. 32; p. 7. There are not any unavoidable consensual liens in the Property as of the commencement of this case. *See* Schedule D, Dckt. 32 p. 17. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$43,600 on Schedule C (the amount of Debtor's 8.33% interest in the Debtor's projected value of the Property, not the full amount of a homestead exemption in California). Dckt. 32.

At a hearing on December 7, 2023, the court approved a sale of Debtor's interest in the two farmland parcels: APN 002-005-050 and 002-005-051. Civ. Minutes and Order; Dckts 189, 195.

However, in the Motion to Avoid this Judicial Lien as impairing Debtor's exemption in the 13330 Valley Home Road Property, Debtor states that the exemption amount claimed was \$313,453. Motion, p. 2:7; Dckt. 197. It is unclear how such exemption amount would be computed (it not even being the minimum exemption amount that could be claimed in 2023 when this Bankruptcy Case was filed).

This Bankruptcy Case has provided a judicial forum where Debtor and his family members have worked productively to resolve long running family disputes relating to this residence Property and two adjoining parcels of farm property.

In the Motion Debtor references the 1330 Valley Home Rd, Valley Home, California Property, but does not state whether he is referencing the residential property in which the Debtor lived, or the adjoining farming parcels (and the proceeds from that sale).

Debtor's Declaration is provided in support of the Motion. Dec; Dckt. 199. His testimony includes the following:

- A. Debtor is an owner of the 13330 Valley Home Road Property. Dec., ¶ 1; Dckt. 199.
- B. Debtor resides and did reside in the Property prior to and at the time of filing this Bankruptcy Case. *Id.*; ¶ 4.
- C. Attached as Exhibit A is a legal description of the Property.
 - 1. Exhibit A; Dckt. 200. Exhibit A is a copy of the Deed by which Debtor acquired his interest in the Property. In the Legal Description, the three parcels of real property (residence and two farm land parcels) are described.
- D. Attached as Exhibit B is a true and correct copy of Debtor's Schedule C. *Id.*, ¶ 6.
 - 1. On Schedule C Debtor's exemption in the 1330 Valley Home Road Property, identified as Parcel 002-005-049 is claimed in the amount of \$43,600.
- E. In his Declaration Debtor provides his opinion that his value in the Property is \$43,600. *Id.* ¶ 11.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien in the 1330 Valley Home Rd, Valley Home, California (**APN 002-005-049**) property.

At the hearing, Debtor confirmed that the property for which the lien is to be avoided is **XXXXXXX**.

Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

ISSUANCE OF A COURT-DRAFTED ORDER

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by Michael Hofmann (“Debtor”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of John P. Brichetto individually and as trustee of the John and Jacqueline Brichetto 2008 Revocable Trust dated May 7, 2008 (“Creditor”), California Superior Court for Stanislaus County Case No. 2200623, recorded on May 5, 2022, Document No. 2022-0033649, with the Stanislaus County Recorder, against the real property commonly known as 13330 Valley Home Rd, Valley Home, California (APN ~~002-005-049~~), is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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 Subchapter V Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on November 8, 2023. By the court's calculation, 57 days' notice was provided. 42 days' notice is required.

The Confirmation of Plan of Reorganization has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 2002(b). 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). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<p>The Confirmation of Plan of Reorganization is xxxx.</p>
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RHS

January 25, 2024 Hearing

A review of the Docket on January 22, 2024 reveals that no new documents have been filed with the court.

At the September 28, 2023 Status Conference, Debtor/Debtor in Possession counsel amended the Plan to increase the payment \$3,200.00 a month for 60 months. Civ. Min.; Dckt. 28. The court determines that this represents the Debtor/Debtor in Possession's projected disposable income for the Subchapter V Plan. As stated above, the court further determines that this provides the creditors with at least the liquidation value of the Estate in this Bankruptcy Case.

Also at the prior Status Conference, Counsel for Brichetto concurred that a monthly plan payment of \$3,200.00 will sufficiently fund a Plan, and he consents to the Plan. He further asserted that this actually is likely to present the creditors with substantially more than if the Bankruptcy Estate were liquidated.

In addition to the increase in the Plan payments, at the prior Status Conference the Debtor/Debtor in Possession further amended the Subchapter V Plan to provide for the Subchapter V Trustee to continue in possession and control of the real property of the Estate and sell such property after confirmation of the Plan. The respective interests of the Debtor and the Hofmann Creditors in the residential property will be determined by the Bankruptcy Court in the event that there is a dispute as to their respective interests in the proceeds of the sales thereof.

Following the prior Status Conference, the First Amended Plan of Reorganization was filed on September 26, 2023. Dckt. 164.

On January 2, 2024, the Debtor/Debtor in Possession filed a Plan Ballot Summary. Dckt. 224. This information in the summary is:

- A. Class 1 is unimpaired and no votes were cast. This is a class for priority claims and Debtor/Debtor in Possession states that there are no such claims, but if they are, they will be paid upon the effective date of the Amended Plan or such claim is allowed (if such dispute exists).
 - 1. No Class 1 Ballots have been cast.
- B. Class 2 is the Brichettos Secured Claim, which is impaired by the Plan. They shall retain their security interests in Debtor's interest in the farmland property, with Debtor's interest to be sold by the Subchapter V Trustee. (The court has authorized the sale of Debtor's interest in the farmland property for \$80,000.)
 - 1. No Class 2 Ballots have been cast.
- C. Class 3 is the secured claim of Mercedes Benz, which is unimpaired, with Debtor/Debtor in Possession continue payments thereon pursuant to the pre-petition loan and security documents.
 - 1. No Class 3 Ballots have been case.
- D. Class 4 are the general unsecured claims and are impaired.
 - 1. Ballots Cast
 - a. One Acceptance; which represents 38.2% of the total general unsecured claims.
 - b. One Rejection; which represents 61.8% of the total general unsecured claims.

One of the required elements is that each class has accepted the plan or is not impaired under the plan. 11 U.S.C. § 1129(a)(8). Also, 11 U.S.C. § 1129(a)(10) requires that if a class of claims is impaired under the plan, then at least one class of impaired claims must accept the plan. In 11 U.S.C. § 1129(c) the creditors voting to accept the plan must hold at least two-thirds of the amount of claims in that class.

Here, there are several voting shortcomings. No class has accepted by a majority of the vote and the rejecting creditor holds 61/8% of the amount of the claims in Class 4.

However, that is not the end of the inquiry. 11 U.S.C. § 1191(b) provides an exception when there is not an accepting class, stating:

(b) Exception. Notwithstanding section 510(a) of this title [11 USCS § 510(a)], if all of the applicable requirements of section 1129(a) of this title [11 USCS § 1129(a)], other than paragraphs (8), (10), and (15) of that section, are met with respect to a plan, the court, on request of the debtor, shall confirm the plan notwithstanding the requirements of such paragraphs if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

This “cram down” confirmation of a plan requires the court to determine that this First Amended Plan does: (1) not discriminate unfairly, and (2) is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

At the hearing, **XXXXXXXXXX**

REVIEW OF THE PRIOR PROCEEDINGS

APPLICABLE LAW

Subchapter V Confirmation Requirements

Congress provides in 11 U.S.C. § 1191(a) that the court shall confirm a proposed Subchapter V plan only if all of the requirements of 11 U.S.C. § 1129(a) are satisfied. Congress then excludes from compliance the requirements of § 1129(a)(8), (10), and (15), “if the plan does not discriminate unfairly, and is fair and equitable with respect each class of claims or interests that is impaired under, and has not accepted, the plan.” 11 U.S.C. § 1191(b).

The requirements for confirmation provided in 11 U.S.C. § 1129(a), as modified by 11 U.S.C. § 1191(b) [with the excluded provisions for a “cram down” if not all required elements are met) shown by ~~strikeout text~~], are:

(a) The court shall confirm a plan only if all of the following requirements are met:

(1) The plan complies with the applicable provisions of this title.

(2) The proponent of the plan complies with the applicable provisions of this title.

(3) The plan has been proposed in good faith and not by any means forbidden by law.

(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.

(5)

(A) (I) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and

(B) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

(6) Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

(7) With respect to each impaired class of claims or interests—

(A) each holder of a claim or interest of such class—

(I) has accepted the plan; or

(ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date; or

(B) if section 1111(b)(2) of this title applies to the claims of such class, each holder of a claim of such class will receive or retain under the plan an account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

~~(8) With respect to each class of claims or interests—~~

~~(A) such class has accepted the plan; or~~

~~(B) such class is not impaired under the plan.~~

(9) Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that—

(A) with respect to a claim of a kind specified in section 507(a)(2) or 507(a)(3) of this title [11 USC § 507(a)(2) or 507(a)(3)], on the effective date of the plan,

the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

(B) with respect to a class of claims of a kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of this title [11 USCS § 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7)], each holder of a claim of such class will receive—

(I) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim;

(C) with respect to a claim of a kind specified in section 507(a)(8) of this title, the holder of such claim will receive on account of such claim regular installment payments in cash—

(I) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and

(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8) [11 USCS § 507(a)(8)], but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).

~~(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.~~

(11) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

(12) All fees payable under section 1930 of title 28 [28 USCS § 1930], as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan.

(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title [11 USCS § 1114], at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title [11 USCS § 1114], at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.

(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.

~~(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—~~

~~(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or~~

~~(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2) [11 USCS § 1325(b)(2)]) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.~~

(16) All transfers of property under the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

Congress also provides in 11 U.S.C. § 1191(c) statutory definitions and requirements for “fair and equitable treatment” in confirming a Subchapter V Plan, stating:

(c) Rule of construction. For purposes of this section, the condition that a plan be fair and equitable with respect to each class of claims or interests includes the following requirements:

(1) With respect to a class of secured claims, the plan meets the requirements of section 1129(b)(2)(A) of this title

(2) As of the effective date of the plan—

(A) the plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date that the first payment is due under the plan will be applied to make payments under the plan; or

(B) the value of the property to be distributed under the plan in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date on which the first distribution is due under the plan is not less than the projected disposable income of the debtor.

8 Collier on Bankruptcy ¶ 1191.04 provides a good discussion of this statutory requirement.

Then, in 11 U.S.C. § 1191(d), Congress provides the statutory definition for “Disposable Income” as used in 11 U.S.C. § 1191(c), stating;

(d) Disposable income. For purposes of this section, the term “disposable income” means the income that is received by the debtor and that is not reasonably necessary to be expended—

(1) for—

(A) the maintenance or support of the debtor or a dependent of the debtor; or

(B) a domestic support obligation that first becomes payable after the date of the filing of the petition; or

(2) for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the debtor.

A final special confirmation rule for Subchapter V Plans is stated by Congress in 11 U.S.C. § 1191(e):

(e) Special rule. Notwithstanding section 1129(a)(9)(A) of this title [required treatment for specific priority administrative expenses and involuntary case claims prior to entry of the order for relief] a plan that provides for the payment through the plan of a claim of a kind specified in paragraph (2) or (3) of section 507(a) of this title may be confirmed under subsection (b) of this section.

Review of Subchapter V Plan Supporting Evidence

a. Subchapter V Plan; Filed September 26, 2023; Dckt. 164

i. ¶ A; the plan satisfies the liquidation analysis - See Exhibit A below.

(1) Exhibit A Information

	Real Property	Personal Property
	\$1,045,000.00	\$228,011.00
Secured Claims Sch D	(\$83,600.00)	(\$41,557.00)

Non-Debtor Equity	(\$961,400.00)	\$0.00
Exemptions	(\$43,600.00)	(\$161,715.00)
	=====	=====
Value of Non Exempt Interest in Property of the Estate	(\$43,600.00)	\$24,739.00

From this, the Liquidation Analysis (Exhibit A) then computes that the Chapter 7 Administrative Expenses would be (\$3,223), leaving \$21,515 of value in property of the Bankruptcy Estate for payment of General Unsecured Claims.

Debtor computes there to be (\$1,372,464) in general unsecured claims, which results in a projected 1.57% dividend going to creditors holding General Unsecured Claims [$\$21,515 \div (\$1,372,464) = 1.57\%$]. ^{FN.1.}

FN. 1. The computation of the amount of general unsecured claims appears to be based on the Proofs of Claims actually filed and not the Unsecured Claims as listed on Schedule E/F.

Amended Schedule F Scheduled Unsecured Claim Creditor	Scheduled Amount	Proof of Claim Amount	Creditor Filing General Unsecured Proof of Claim
Barbara Wagner	(\$425,000)	(\$646,000)	Barbara Wagner – POC 11
Capital One	(\$6,452)	(\$6,452)	Capital One – POC 2
Citibank	(\$1,535)	(\$1,535)	
Crabtree Schmidt	(\$20,100)	(\$49,808)	Crabtree Schmidt – POC 9
Discover Financial	(\$3,662)	(\$3,662)	Discover Bank – POC 3
Resurgent Capital Services (Cross River Bank)	(\$11,336)	(\$11,336)	LVNV Funding (Resurgent Capital Services) – POC 1
Rural Community Assistance Corp	(\$178,000)	(\$239,931)	Rural Community Assistance – POC 10
Sharon and Gary Hofmann	(\$220,000)	(\$334,038)	Sharon and Gary Hofmann – POC 12

Velocity Investments (Lending Club Corp)	(\$16,000)	(\$16,053)	Accelerated Inventory (Webbank) – POC 8
Viking Client Services	(\$20,947)	(\$20,946)	Atlas Acquisitions LL (UHG I LLC) – POC 5 [This appears to be the Debt listed for Viking Client Services]
	=====	=====	
Total by Debtor's Schedules	(\$903,032)	(\$1,329,761)	Total by Proofs of Claim Amounts and Debtor's Schedules if no Proof of Claim Filed

ii. ¶ B; Funding of Plan: Social Security and Self-Employment - See Exhibit B below.

- (1) Debtor will fund the Plan with \$2,082 a month, with the Plan term projected to be 60 months.
- (2) Exhibit B are Schedules I and J filed in this case. However, on December 29, 2023, Debtor filed an Amended Schedule I and Schedule J, which provides the following information as summarized by the court.

(a) Income

(i) Gross Income

- 1) Wages/Salary/Commissions.....\$12,959
- 2) Social Security.....\$ 3,290
- 3) No contribution from Co-habiting Partner

(ii) Income Tax, Medicare, Social Security
Income Withholding.....(\$3,290)

(iii) Monthly Income.....\$15,023

On Amended Schedule I Debtor states under penalty of perjury that he is a Self-Employed Consultant, not an employee who is paid wages by an employer. No self-employment business income and expense information is provided as required on Schedule I, ¶ 8a.

(b) Expenses.....(\$9,652)

(Including)

- (i) Rent/Mortgage.....(\$3,273)
- (ii) Utilities.....(\$957)
- (iii) Food Housekeeping Supplies....(\$1,274)
- (iv) Taxes..... -\$0.00

(c) Debtor's Monthly Net Income\$5,372

It is not clear how Debtor has only \$1,225 a month in taxes on \$155,508 in self-employment income and \$39,480 of Social Security Income (of which 80% is subject to federal taxes at Debtor's income level). Additionally, it is not clear how Debtor, as one person, has personally \$1,275 in food and housekeeping expenses monthly.

The 60 month Subchapter V Plan provides for monthly payments of \$2,082, with Debtor's projected disposable income computed to be \$5,372 on Amended Schedules I and J.

iii. Classes of Creditor Claims Article 2.

(1) Class 1 - Priority Claims and Priority Taxes.

- (a) ¶ 4.01; no such claims are anticipated, but if filed will be paid in full upon the effective date or date when order allowing claim is final.

(2) Class 2 - Brichetto Secured Claim, to the extent as allowed by the court pursuant to 11 U.S.C. § 506.

- (a) ¶ 4.01 - Claim is impaired. Debtor shall sell his interest in the farmland, with the sale to be conducted by the Subchapter V Trustee as previously ordered by the court.

- (i) Brichetto shall retain their security interest and rights arising under California law arising from the partial judgment, as modified by the amended order or judgment, and subject to 11 U.S.C. § 506.

(3) Class 3 - Mercedes Benz claim, to the extent as allowed by the court pursuant to 11 U.S.C. § 506.

- (a) ¶ 4.01 - Claim is unimpaired, to be paid as provided in the contract upon which Mercedes Benz Claim is based.

iv. Class 4 - General unsecured claims

- (1) ¶ 4.01 - Claims are impaired and will be paid monthly 4.73% principal payments.

It appears that this language may contain a clerical error. If creditors are paid 4.73% monthly principal payments for 60 months, then that would equal payments totaling 283.8% of each claim. It looks like there is a clerical error in this provision and it should say something like:

Allowed Class 4 general unsecured claims shall received a dividend equal to 4.73% of their allowed claim, with such divided to be paid in equal monthly installments over the 60 month term of the Plan.

b. Declaration in Support of Confirmation; Dckt. 208 (same as Amended Declaration in Reply to Hofmann Creditor's Opposition to Confirmation).

i. Debtor testifies:

- (1) ¶ 3; Debtor has a household of 2 adults.
- (2) ¶ 4; Debtor's intention is to purchase the Property, using his 8.33% interest in the Property as a down payment.
- (3) ¶ 6; Debtor pays approximately (\$300) a month to maintain the Property.
- (4) ¶ 7; Debtor pays approximately (\$957) a month in utilities.
- (5) ¶ 8; Debtor pays approximately (\$423) a month in pet expenses.
- (6) ¶ 9; Debtor pays approximately (\$1,023) a month in out of pocket medical expenses.

Opposition to Confirmation

c. Sharon and Gary Hofmann Opposition; Dckt. 192

i. Hofmann Creditors own 91.66% interest in Valley Home Road Property.

- (1) Debtor owns 8.33% interest

ii. Alleged that Debtor's liquidation analysis with the Plan is flawed because:

- (1) Debtor can exempt only his interest in the Property, and if the Property were sold the Hofmann Creditors would receive over 90% of the sales proceeds.
- (2) No discussion of the liquidation analysis is made, nor computations to show how it is not properly computed by Debtor.

iii. Alleged that Plan does not provided "adequate means" for implementing the Plan as required by 11 U.S.C. § 1123(a)(5).

- (1) This is because the Plan does not address:

- (a) Debtor's minority interest in the Property
 - (b) Debtor has been squatting in the Property
 - (c) Does not provide any distributions for Hofmann Creditors as co-owners.
- iv. Alleged that confirmation is likely to be followed by a liquidation or need for future reorganization, violating the requirements of 11 U.S.C. § 1129(a)(11).
 - (1) Plan does not address the ownership interest of Hofmann Creditors, which is not property of the Bankruptcy Estate.
 - (a) Plan does not address the pre-petition final state court "decision" with respect to such rights.
 - (b) Upon confirmation, Hofmann Creditors could proceed to enforce their rights in state court.

No analysis of the allegations is provided, no analysis of the state court "decision", and no evidence presented in opposition to confirmation.

Debtor's First Amended Reply to Hofmann Creditors' Opposition; Dckt. 219.

- d. The liquidation requirement (that creditors receive no less than they would in a Chapter 7 case) is satisfied, and if the payments on the claims are over time, then they must receive the present value (which requires the plan to provide for interest for such creditors).
 - i. Chapter 11 Estate contains only the Debtors' interests in property.
 - ii. Objection is Procedurally Deficient; FRBP 9014 and 2030(b)(1), and LBR9014-1(f), 3015-1(c)(4).
 - iii. Only Debtor's 8.33% interest in the Property is included in the Bankruptcy Estate, not Hofmann Creditors' 91.67% interest.
 - (1) Debtor's Schedules Value the Property at \$545,000, with the Debtors' 8.33% interest having a value of \$43,600.
 - iv. By separate order, the court has authorized the Subchapter V Trustee to liquidate the Property, with 8.33% of the proceeds paid to Debtor and 91.67% paid to Hofmann Creditors (to provide for the Financial Partition of the Property consistent with the state court "decision").
 - v. Confirmation of a plan is binding on all creditors, including the Hofmann Creditors.
 - vi. Hofmann Creditors have submitted no evidence in Opposition.

- e. First Amended Declaration in Opposition to Hofmann Creditors' Opposition; Dckt. 217. (Same as Declaration in Support of Confirmation.)
 - i. Debtor testifies:
 - (1) ¶ 3; Debtor has a household of 2 adults.
 - (2) ¶ 4; Debtor's intention is to purchase the Property, using his 8.33% interest in the Property as a down payment.
 - (3) ¶ 6; Debtor pays approximately (\$300) a month to maintain the Property.
 - (4) ¶ 7; Debtor pays approximately (\$957) a month in utilities, plus an additional (\$100) a month for propane..
 - (5) ¶ 8; Debtor pays approximately (\$423) a month in pet expenses.
 - (6) ¶ 9; Debtor pays approximately (\$1,023) a month in out of pocket medical expenses.

Response of Brichetto Creditors

On December 7, 2023, Creditors John P. and Jacqueline J. Brichetto, each individually and each as Trustees of the John and Jacqueline Brichetto 2008 Revocable Trust dated May 7, 2008; Joseph P. Brichetto, John M. Brichetto, Lee Ana L. Brichetto ("Brichetto Creditor") filed a Response stating their Conditional Approval of the Subchapter V Plan. Dckt. 186. While titled as a "Conditional Approval," the Response states specific objections to the proposed Plan.

Objection A, p. 4:20 - 6-16; Dckt. 186.

- 1. Debtor lists (\$3,600) in rental/mortgage. Brichetto Creditor asserts that this should be reduced to \$2,000 a month. The factors include that Debtor's companion living at the premises.
- 2. Debtor's home maintenance, repair, or upkeep expense of (\$610) a month. Brichetto Creditor states that none of the operating reports include such an expense, and suggests that a reasonable amount would be (\$125) a month.
- 3. Debtor's electrical, heat, and gas expenses of (\$900) a month. Brichetto Creditor asserts that no documentation has been provided for such an expense. It is also noted that the expenses of Schedule J include an additional (\$100) a month for propane. Brichetto Creditor asserts that the allowed expense should be no more than (\$470.00) or the actual expense, whichever is less.
- 4. Debtor's (\$1,400) food and housekeeping supplies. Brichetto Creditor asserts that a reasonable amount for one person is (\$550) a month [(\$307) for food and (\$30) for housekeeping supplies].

5. Debtor's (\$350) pet expense. Brichetto Creditors asserts that this amount should not exceed (\$125) a month, and that Debtor's desire to have pets need to be balanced by the more than (\$1,000,000) in unsecured debt he seeks to discharge in this Bankruptcy Case.

DISCUSSION

This Case has presented the court, and the parties and their respective counsel, with an unusual set of circumstances for a Subchapter V case. Fortunately, the Parties and their counsel, with the assistance of the Subchapter V Trustee, have used this Bankruptcy Case to try and (somewhat) cost effectively address the competing claims and interest.

One major fight has been between the Debtor and the Hofmann Creditors. As noted in the Debtor's supporting pleadings and the Hofmann Creditors opposition, the Debtor has interests in several parcels of real property:

For the 13330 Valley Home Road residential property (APN 002-005-049), Debtor holds an 8.33% and the Hoffman Creditors hold a 91.37% interest.

For the 13330 Valley Home Road Farm Land Property (APN 002-005-051), Debtor holds an 8.33% and the Hoffman Creditors hold a 91.37% interest.

13330 Valley Home Road 17 acres of Farm Land (APN 022-005-050), Debtor has an 8.33% ownership interest and the Brichetto Family has a 91.37 ownership interest.

The co-owners of the properties had obtained a judgment in State Court for the partition of the properties, it being by a financial partition of the proceeds following the sale of the properties. The filing of the bankruptcy disrupted the State Court partition sales of the properties. Debtor was asserting a right to purchase the residence property and payoff the Hoffman Creditors for their 91.37% interest in said property.

Though some of the animosity from the State Court Action spilled over to the Bankruptcy Case, with respect to the real properties, the Parties saw the wisdom in having the Debtor removed from control of the real properties and have the Subchapter V Trustee placed in possession of such properties and then the Subchapter V Trustee proceed with a commercially reasonable marketing and sale of the properties with the respective owners receiving their respective interests in the proceeds from the sale (effectuating the financial partition).

On July 7, 2023, the court entered its order removing the Debtor from possession and control of the following properties and placing them in the possession and control of the Subchapter V Trustee:

- A. Debtor was removed from serving as the Debtor in Possession for the Estate's 8.33% for:
 1. The 2 acre residential property listed on the Schedules A/B, Line 1.1, 13330 Valley Home Rd, Oakdale, California;
 2. The two parcels contiguous to the residential property, identified as:

- a. 24 acres farmland property listed on Schedules A/B on Line 1.2, and
 - b. 17 acres farmland property listed on Schedules A/B on Line 1.3.
3. The Subchapter V Trustee was expressly authorized to market and sell the estate's interest in the three parcels, including a sale pursuant to 11 U.S.C. § 363(h), which allows a trustee to sell both the debtor's and the co-owner's interests in property and then financially partition the sales process.

Order; Dckt. 119. The court entered its order on August 9, 2023, authorizing the Subchapter V Trustee to engage the services of Keller Williams Market Center 153 for the marking and sale of the real properties identified above. Order; Dckt. 133. Having these orders in place for the Subchapter V Trustee to market and sell the Properties, the Hofmann Creditors requested that the court dismiss without prejudice their Motion for Relief From the Stay so they could proceed with the State Court partition of the residence property.

On December 15, 2023, the court entered its order granting the Subchapter V Trustee's Motion for Authorization to Sell the Estate's interest in the two farmland parcels to the Brichetto Family (the co-owners of the Property). Order; Dckt. 195.

Motion to Avoid Lien as Impairing Exemption

On December 27, 2023, Debtor filed his Motion to have the judicial lien of the Brichetto's on the Farmland Properties avoided and Debtor recover his real estate exemption from the sale of his interest in the Farmland Properties. Motion; Dckt. 197. On Schedule C Debtor claimed a homestead exemption in the amount of \$43,600 in the 2 acre residential parcel (APN 002-005-049). Schedule C; Dckt. 32 at 15. This homestead exemption was claimed pursuant to California Code of Civil Procedure § 704.730 (California \$300,000+ homestead exemption). *Id.*

In the Motion to Avoid Judicial Lien, the description of the Property is stated to be as set forth in Exhibit A, a copy of the Deed by which Debtor asserts he acquired his interest. The properties identified in the Deed as Parcels APN 002-005-051, 002-005-050, and 002-005-049. Exhibit A; Dckt. 200.

By the court's Order authorizing the sale of property by the SubChapter V Trustee (Order; Dckt. 195), the Trustee has sold the two farmland parcels.

The copy of Schedule C filed as Exhibit B in support of the Motion to Avoid Judicial Lien is the one referenced above (Dckt. 32) in which the property identified in which the exemption is claimed to be: "13330 Valley Home Rd , Oakdale, CA , 95361 , Stanislaus County , SFR - 2 Acres - 002-005-049, Line from Schedule A/B: 1.1." Exhibit B; Dckt. 200 (with the court adding the three commas, , to identify the line breaks on Schedule C).

Confirmation of Plan

It appears that a portion of the Hofmann Creditors' Opposition can be resolved by clearly providing that the Subchapter V Trustee continues to remain in control and possession of the Residence Property, and the Subchapter V Trustee will proceed with the marketing and sale of the Residence Property.

Additionally, that the proceeds of such sale shall be financially partitioned between the Debtor, 8.33%, and the Hofmann Creditors, 91.67%.

Liquidation Test Compliance

With respect to the argument (no analysis provided) by the Hofmann Creditors that the 1.57% minimum dividend does not satisfy the liquidation test, the court does not agree. From the court's review of the Schedules, Proofs of Claims filed, and the evidence of the value of the property of the Bankruptcy Estate, it does not appear that the liquidation value analysis provided as part of the Subchapter V Plan is incorrect. Thus, the minimum 1.57% dividend to creditors holding general unsecured claims does satisfy the liquidation test.

Funding of Subchapter V Plan

The Opposition to Confirmation filed by the Hofmann Creditors raises the issue of whether the Plan is properly and sufficiently funded. As counsel for the respective parties are well aware, the Supreme Court has made it clear to trial court judges that they must properly apply the law, and not rely on either an unopposed misstatement or ignorance of the law. *United Student Air Funds, Inc. v. Espinosa*, 559 U.S. 260 (2010).

At the hearing, Debtor/Debtor in Possession counsel amended the Plan to increase the payment \$3,200.00 a month for 60 months. The court determines that this represent the Debtor/Debtor in Possession's projected disposable income for the Subchapter V Plan. As stated above, the court further determines that this provides the creditors with at least the liquidation value of the Estate in this Bankruptcy Case.

Counsel for Brichetto concurred that a monthly plan payment of \$3,200.00 will sufficiently fund a Plan and consent to the Plan. He further asserted that this actually is likely to present the creditors with substantially more than if the Bankruptcy Estate were liquidated.

With respect to the lien avoidance motion that relates to the judgment lien on the Brichetto Creditors judgment for legal fees. While not yet resolved, counsel believes that it will be resolved based on the economics.

Counsel for the Hofmann Creditors could not consent to the confirmation of the Subchapter V Plan, but submitted the matter for the court to determine on the record without further evidence or hearing.

In addition to the increase in the Plan payments, the Debtor/Debtor in Possession further amended the Subchapter V Plan to provide for the Subchapter V Trustee to continue in possession and control of the real property of the Estate and sell such property after confirmation of the Plan. The respective interests of the Debtor and the Hofmann Creditors in the residential property will be determined by the Bankruptcy Court in the event that there is a dispute as to their respective interests in the proceeds of the sales thereof.

The Debtor/Debtor in Possession shall prepare a Final Amended Plan, incorporating the proposed amendments. The Subchapter V Trustee and the respective counsel for the Hofmann Creditors and the Brichetto Creditors shall approve the Final Amended Plan as to form, and counsel for the Debtor/Debtor in Possession shall file Final Amended Plan and then lodge with the court a proposed order confirming the

Final Amended Plan, which Final Amended Plan shall be attached as an exhibit.

The court concludes that with the amendments stated at the January 4, 2024 hearing, the Final Amended Plan meets the requirements for confirmation as provided in 11 U.S.C. § 1191.

The court's findings of fact and conclusions of law are stated in these Civil Minutes and on the Record for the January 4, 2024 hearing.

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 Confirmation Hearing on the Proposed Subchapter V Plan filed by the Debtor/Debtor in Possession having been conducted by the court, amendments to the Proposed Plan having been stated on the record at the January 4, 2024 hearing, the terms of the Final Amended Plan having been stated on the record at the January 4, 2024 as agreed by the Debtor in Possession and Creditors, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Confirmation of the Proposed Subchapter V Plan is
XXXX.

Debtor's Atty: Brian S. Haddix

Notes:
Continued from 9/29/23

[BSH-3] Order denying confirmation filed 10/3/23 [Dckt 168]

Order to Set Confirmation Hearing filed 10/31/23 [Dckt 170]

[DL-3] Motion by Subchapter V Trustee for Authorization to Sell Estate's Interest in Farmland filed 11/6/23 [Dckt 171]

The Status Conference is XXXXXXX
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JANUARY 25, 2024 STATUS CONFERENCE

At the Status Conference, XXXXXXX

SEPTEMBER 28, 2023 STATUS CONFERENCE

At the Status Conference, counsel for the Debtor in Possession reported that they will need to pursue a new plan. That amended plan has been filed and the Debtor in Possession believes that it can move forward, though not likely to be consensual. There may be a feasibility dispute.

Several bids have come in on the sale of the Property and a carve out for the Estate is being worked out.

Subchapter V Trustee Walter Dahl reported that he is proceeding with the Residence and the Farmland Properties. Has an offer from the Brichetto Group to purchase the 8.33% interest, with an \$80,000 offer. There is a carve out the Bankruptcy Estate negotiated form \$12,000.00. This is for a sale of the Farmland Property.

Counsel for the Debtor in Possession confirmed that the Debtor in Possession would not be contesting the distribution of the proceeds based on the respective interests in the Farmland Property.

For the Residence Property, it is listed for sale for \$660,000, with substantial interest in it. There has been an offer and a counteroffer, but none has been accepted. A \$12,500.00 carve out is anticipated being received by the Estate.

Counsel for Creditor Hofmann questions whether a plan should be confirmed before the sale occurs. Creditor Hofman's consent is conditioned on them being paid from the sale proceeds.

Counsel for the Brichetto Group reported that he believed that the Farmland Property sale should proceed smoothly.

The Status Conference is continued to 2:00 p.m. on January 25, 2024.

5. [18-90029-E-11](#) **JEFFERY ARAMBEL**
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
1-17-18 [1](#)**

Debtor's Atty: Pro Se

Notes:
Continued from 10/19/23

Operating Reports filed: 10/31/23

Notice of Plan Administrator's Post-Confirmation Monthly Compensation Report for Payment of Professional Fees for Services filed: 11/13/23; 12/28/23

[FWP-28] Interim order re use of cash collateral filed 11/13/23 [Dckt 1942]

[FWP-13] Order dismissing without prejudice the Motion to Abandon filed by Focus Management Group USA, Inc., the Plan Administrator filed 11/13/23 [Dckt 1943]

[FWP-29] Stipulation Regarding Use of Other Cash Collateral filed 12/21/23 [Dckt 1947]

[FWP-28] Minutes of hearing on Motion to Use Cash Collateral filed 1/11/24 [Dckt 1953] Motion granted; Supplemental pleadings to be filed two weeks prior to 3/28/24 continued hearing; Movant to prepare order

The Status Conference is XXXXXXX
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JANUARY 25, 2024 STATUS CONFERENCE

At the January 11, 2024 hearing on the Plan Administrator's Motion to Authorize the Use of Cash Collateral, the court granted that Motion. Civ. Min.; Dckt. 1954. Counsel for Movant is to prepare an order authorizing the use of cash collateral. The proposed order had not been lodged with the court as of January 22, 2024.

At the Status Conference, XXXXXXX

6. [13-90435-E-7](#) SEAN AMIN
[23-9010](#) CAE-1
NEVAREZ V. ELLIOTT ET AL

CONTINUED STATUS CONFERENCE RE:
NOTICE OF REMOVAL
6-13-23 [1](#)

Plaintiff's Atty: unknown

Defendant's Atty:

David C. Johnston [Sean Afshin Amin]

Unknown [Kevin Amin; California Shade, Inc.; David Elliott]

Adv. Filed: 6/13/23

Answer: none

Nature of Action:

Determination of removed claim or cause

Declaratory judgment

Notes:

Continued from 10/19/23. Counsel for the Debtor reported that a settlement is anticipated in the near future, and requested a further continuance.

The Status Conference is XXXXXXX
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JANUARY 25, 2024 STATUS CONFERENCE

No updated Status Conference Reports have been concerning any settlement of this Adversary Proceeding or whether it will proceed to litigation.

At he Status Conference, XXXXXXX

OCTOBER 19, 2023 STATUS CONFERENCE

The court's review of the Docket reflects that no updated Status Report has been filed and no appearances made by any other party to this Adversary Proceeding.

At the Status Conference, counsel for the Debtor reported that a settlement is anticipated in the near future, and requests a further continuance.

AUGUST 10, 2023 STATUS CONFERENCE

On June 13, 2023, Debtor-Defendant Sean Afshin Amin filed a Notice of Removal of this State Court Action. Dckt. 1. In the State Court Action Defendant-Debtor has been sued for an obligation that is

January 25, 2024 at 2:00 p.m.

- Page 25 of 28 -

asserted to have been discharged in his 2013 Chapter 7 Bankruptcy Case. Defendant-Debtor seeks now to not only defend the State Court Action based on his having obtained a discharge, but to also assert that the naming of Defendant-Debtor in the State Court Action violates the Discharge Injunction, and he will seek damages relating thereto.

The Ninth Circuit has addressed the enforcement of the Discharge Injunction, treating it as a statutory injunction for which the violation may be sought and the injunction enforced by “simple” motion for contempt rather than an adversary proceeding. *Barriento v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1189-1191 (9th Cir. 2011); *ZiLOG, Inc. v. Corning (In re ZiLOG, Inc.)*, 450 F.3d 996, 1007 (9th Cir. 2006); *Walls v. Wells Fargo Bank, N.A.*, 276 F.3d 502 (9th Cir. 2002). See also, *Bayati v. Musharbash (In re Bayati)*, 2015 Bankr. LEXIS 3624 (B.A.P. 9th Cir. 2015), discussing when additional relief to the “mere” violation of the automatic stay would require an adversary proceeding.

At the Status Conference, counsel for Defendant-Debtor reported that there are ongoing discussions to resolve this dispute, which is related to the Adversary Proceeding in *Elliott v. Nevarez*, 22-9002. He indicated that the issues concerning the bankruptcy case and the automatic stay have been highlighted for the person filing the cross-complaint that is the subject of this removed action.

7. [20-90349-E-11](#) [CAE-1](#) **R. MILLENNIUM TRANSPORT, INC.** **CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION**
5-15-20 [\[1\]](#)

SUBCHAPTER V

Debtor’s Atty: David C. Johnston

Notes:

Continued from 9/28/23

The Status Conference is XXXXXXX
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JANUARY 25, 2024 STATUS CONFERENCE

A review of the Docket on January 22, 2024, does not show an updated Status Report having been filed by the Debtor/Debtor in Possession.

At the Status Conference, XXXXXXX

JULY 13, 2023 POST-CONFIRMATION STATUS CONFERENCE

A review of the Docket discloses nothing has been filed since the May 22, 2023 updated Status Report filed by the Debtor/Debtor in Possession. At the Status Conference, counsel for the Debtor/Debtor in Possession reported that the claim of Fresno Truck Center has been resolved by a stipulation that provides for payment of the claim through installments.

8. [22-90296-E-11](#) **PROVIDENT CARE, INC.** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **VOLUNTARY PETITION**
8-29-22 [1]

SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Continued from 11/9/23. Counsel for the Debtor/Debtor in Possession requesting a continuance of the status conference for approximately 60 days.

[LNH-1] First and Final Application Under § 330 for Compensation by Lisa Holder as Subchapter V Trustee filed 1/4/24 [Dckt 139], set for hearing 1/25/24 at 10:30 a.m.

The Status Conference is XXXXXXX
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JANUARY 25, 2024 POST-CONFIRMATION STATUS CONFERENCE

On January 4, 2024, the Subchapter V Trustee filed her Motion for Compensation, which is set to be heard at 10:30 a.m. on January 25, 2024.

At the Status Conference, XXXXXXX

NOVEMBER 9, 2023 POST-CONFIRMATION STATUS CONFERENCE

On October 1, 2023, the court entered it's order confirming the Subchapter V Plan of Reorganization in this Bankruptcy Case. Order; Dckt. 131.

On November 7, 2023, the Debtor/Debtor in Possession filed a Notice of Substantial Consummation as provided in 11 U.S.C. § 1183(c)(2).

9. [23-21899-E-12](#) JAKOB/GLADYS WESTSTEYN CONTINUED STATUS CONFERENCE RE:
[CAE-1](#) VOLUNTARY PETITION
6-9-23 [\[1\]](#)

Debtors' Atty: Daniel L. Egan; Jason Eldred

Notes:

Continued from 11/29/23. (Specially Set to Modesto Division Calendar)

Operating Reports filed: 12/14/23, 1/12/24

[WF-7] Order Extending Deadline for Filing of Chapter 12 Plan filed 12/1/23 [Dckt 155]

[WF-7] Second Amended Chapter 12 Plan Dated December 4, 2023 filed 12/6/23 [Dckt 159]; Notice of Hearing on Second Amended Chapter 12 Plan Dated December 4, 2023 filed 12/6/23 [Dckt 160], set for hearing 1/25/24 at 10:30 a.m.

The Status Conference is XXXXXXX
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JANUARY 25, 2024 STATUS CONFERENCE

On the court's 10:30 a.m. calendar on January 25, 2024, is the continued hearing on the Debtor in Possession Motion to Confirm the Chapter 12 Plan in this case. The court conducted the Status Conference in conjunction with the hearing on the Motion to Confirm.

At the Status Conference, XXXXXXX