



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

February 5, 2024 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

Video web address:

<https://www.zoomgov.com/j/1615917681?pwd=UkgvdC9XVjZleDk1ODdtckZzeWdiUT09>

Meeting ID: 161 591 7681

Password: 606211

Zoom.Gov Telephone: (669) 254-5252 (Toll Free)

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

February 5, 2024 at 1:30 p.m.

- | | | | |
|----|--------------------------------|---------------------|--------------------------------|
| 1. | 23-24214 -C-13 | REGINALD/KATHY KING | OBJECTION TO CONFIRMATION OF |
| | LGT -1 | Peter Macaluso | PLAN BY LILIAN G. TSANG |
| | | | 1-17-24 [17] |

Final Ruling: No appearance at the February 5, 2024 hearing is required.

The above captioned case was dismissed on January 26, 2024. Dkt. 23.
Therefore, the Objection is denied as moot.

The court shall issue a minute 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 Objection to the Chapter 13 Plan filed by the
Chapter 13 Trustee, Lilian Tsang, 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 Objection to Confirmation of
Plan is denied as moot.

2. [23-23636](#)-C-13 LISA/SEAN BYRD
[LGT](#)-1 Peter Macaluso

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
12-6-23 [[29](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 32.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian G. Tsang("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The 341 Meeting has not been concluded;
2. Debtor, Lisa Byrd, has failed to provide the Trustee with a copy of her 2022 income tax returns;
3. Debtors have failed to amend their Schedules I and J; and
4. Debtors have failed to explain how the loss of DSO payments within the pendency of the Chapter 13 case will be supplemented.

A review of the docket shows that the debtors appeared at the continued 341 meeting on January 26, 2024 and the Meeting of Creditors has now been concluded.

The Trustee filed a supplemental objection representing that the debtors have amended their Schedule I and Statement of Financial Affairs. Dkt. 53. The other issues still remain unresolved and the debtors are currently delinquent in plan payments.

DISCUSSION

The debtors are \$3,695 delinquent in plan payments. Declaration, Dkt. 54. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

The debtor has not provided the trustee with all required tax returns. 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not explained the loss of the DSO payments to assist the Chapter 13 Trustee in determining whether the plan was filed in good faith. 11 U.S.C. § 1325(a)(3).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute 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 Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian G. Tsang, 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 Objection is sustained.

3. [23-23055](#)-C-13 SUSANA FULCHER
[GC-1](#) Julius Cherry

MOTION TO APPROVE LOAN
MODIFICATION
12-21-23 [[28](#)]

Final Ruling: No appearance at the February 5, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 46 days' notice was provided. Dkt. 32.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Approve Loan Modification is granted.

The debtor, Susana Fulcher, filed this Motion seeking authority to enter into a loan modification agreement with Carrington Mortgage Services, LLC.

The proposed financing is in the principal amount of \$396,464.75, paid at 2.125% interest over a 335 month term. Monthly payments are proposed to be \$2,305.50.

The court finds that the proposed credit, based on the unique facts and circumstances of this case, is reasonable. There being no opposition from any party in interest and the terms being reasonable, the Motion is granted.

The court shall issue a minute 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 to Approve Loan Modification filed by Susana Fulcher, 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 Motion is granted. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved submit the proposed order to the court.

4. [23-21562](#)-C-13 EMILIA/EMIL ARDELEAN
[NFS](#)-1 Stephan Brown

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-29-23 [[103](#)]

LAND HOME FINANCIAL
SERVICES, INC. VS.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 38 days' notice was provided. Dkt. 109.

The Motion for Relief from the Automatic Stay is xxxxxx.

Land Home Financial Services, Inc. ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' real property commonly known as 6035 Glenbrook Lane, Carmichael, California (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors are delinquent 3 postpetition payments. Declaration, Dkt. 105.

DEBTORS' OPPOSITION

Debtors filed an Opposition on January 22, 2024. Dkt. 125. Debtors assert that the Movant is adequately protected because there is a 59% equity cushion in the property. Debtors further declare that they intend to be current on their payments at the time of the hearing. Declar. Dkt. 126.

DISCUSSION

At the hearing xxxxxxxx

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue a minute 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 Relief from the Automatic Stay filed by Land Home Financial Services, Inc. ("Movant") 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 automatic stay provisions of 11 U.S.C. § 362(a) are ~~xxxxxxx~~

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

5. [22-20364](#)-C-13 SALLY ALLEN
[LGT](#)-1 Richard Jare

OBJECTION TO CLAIM OF COUNTY OF
SACRAMENTO, CLAIM NUMBER 9
1-4-24 [[147](#)]

Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b)(2) procedure which requires 30 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 149.

The Objection to Proof of Claim is sustained, and the claim is disallowed in its entirety.

The Chapter 13 trustee filed this Objection arguing that Proof of Claim, No. 9-1, filed by County of Sacramento was filed late and should be disallowed.

The deadline for governmental units filing proofs of claim in this case is August 17, 2022. Notice of Bankruptcy Filing and Deadlines, Dkt. 22. The Proof of Claim subject to this Objection was filed December 26, 2023.

Based on the evidence before the court, the court finds the creditor's claim was filed untimely. The Objection to the Proof of Claim is sustained, and the claim is disallowed in its entirety.

The court shall issue a minute 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 Objection to Claim filed in this case by the Chapter 13 trustee, Lilian G. Tsang, 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 Objection to Proof of Claim Number 9-1 of County of Sacramento is sustained, and the claim is disallowed in its entirety.

Final Ruling: No appearance at the February 5, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 44.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify Plan is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute 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 to Modify Plan filed by the debtor, Cheri Terhorst, 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 Motion is granted, the Modified Chapter 13 Plan (Dkt. 43) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

7. [23-22374](#)-C-13 WILLIE WATSON
[LGT](#)-2 Peter Cianchetta

CONTINUED MOTION TO DISMISS
CASE
1-9-24 [[123](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dkt. 126.

The Motion to Dismiss is xxxxxxx

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal, or conversion, exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on October 4, 2023.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation. Dkts. 85 & 90.

At the prior hearing on January 23, 2024, counsel for the debtor indicated that a new plan would need to be filed.

A review of the docket shows the debtor filed an amended plan and corresponding Motion to Confirm on January 26, 2024. Dkts. 137 & 139.

Creditor, Bowles & Verna LLP filed a memo arguing that the case should be dismissed based upon the debtor's bad faith in this case. Dkt. 143. Creditor asserts that the debtor exhibited bad faith when he failed to disclose all of his bank accounts.

At the hearing xxxxxxx

The court shall issue a minute 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 to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee, Lilian
G. Tsang, 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 Motion to
Dismiss is xxxxxxx