



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

February 7, 2023 at 1:30 p.m.

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UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

February 7, 2023 at 1:30 p.m.

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1. [22-23132](#)-C-13 ROBERT/RINDA THOKE OBJECTION TO CONFIRMATION OF
[MMJ](#)-1 Mikalah Liviakis PLAN BY CAPITAL ONE AUTO
FINANCE
12-30-22 [[17](#)]

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 39 days' notice was provided. Dkt. 20.

The Objection to Confirmation of Plan is sustained.
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Creditor, Capital One Auto Finance ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan does not provide for creditor's secured claim as filed in its proof of claim.

DEBTORS' OPPOSITION

Debtors filed an Opposition on January 20, 2023. Dkt. 21. Debtors represent the vehicle that secures the loan was totaled in a car accident in 2021 and the debtors no longer own the vehicle. Additionally, debtors assert that the local Chapter 13 plan does not require that all secured claims be provided for in the plan.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the loan as Creditor argues, the debtors have not carried their burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

It is also noteworthy that any secured claims that are paid directly by the debtors or third party are required to be listed under Section 3.10 as a Class 4 creditor. In debtors' plan there is "NONE" listed as Class 4 creditors. However, it also appears from the proof of claim (Claim No. 1) that the debtors are in default and the full amount of the claim is in

arrears that must be paid through the plan.

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 Capital One Auto Finance, 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.

2. [22-21135](#)-C-13 ROBERT KOEHLER
[22-2027](#) Eric Schwab

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
5-11-22 [[1](#)]

PRINZ ET AL V. KOEHLER, JR.

Thru #4

The parties filed a status report (dkt. 17) on July 12, 2022 representing that the state court judgement is the subject of pending cross-appeals. The parties have agreed this adversary proceeding should be stayed until the cross-appeals have been resolved.

3. [22-21135](#)-C-13 ROBERT KOEHLER
[DNL](#)-3 Eric Schwab

CONTINUED MOTION TO CONVERT
CASE FROM CHAPTER 13 TO CHAPTER
7
7-28-22 [[34](#)]

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 28 days' notice was provided. Dkt. 38.

The Motion to Convert Case to Chapter 7 is ~~xxxxxx~~

This Motion to Convert the Chapter 13 bankruptcy case of Robert Francis Koehler ("Debtor") has been filed by Drew and Elizabeth Prinz ("Movant"), a creditor. Movant asserts that the case should be dismissed or converted based on the following grounds:

- A. Debtor filed the current bankruptcy case in an inequitable manner and unfairly manipulated the Bankruptcy Code because he dismissed his first bankruptcy case after substantial time and expense was devoted to an Adversary Proceeding and contested matters to decide an exception to discharge, conversion of case to Chapter 7 and objections to claims of exemption.
- B. The debtor filed in bad faith because his second case was filed 23 days after the first bankruptcy case was voluntarily dismissed.
- C. The debtor's intent was to only defeat the state court litigation because both the first and second bankruptcy cases were filed within hours of adverse rulings by the state court.
- D. The debtor's behavior is egregious because he is using the bankruptcy system to avoid paying a judgment to an elderly client.

Movant also contends that conversion, rather than dismissal, is in the best interest of creditors because dismissal will require the Movant to seek satisfaction of their claims through alternative means, whereas Chapter 7 will provide payment to the Movant as quickly as reasonably possible. Movant further argue that liquidation is the better alternative because the Debtor has a significant amount of non-exempt assets available to pay Movant.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 11, 2022. Dkt. 41. Debtor states that Movants and debtor agreed to stay the associated adversary proceeding until the cross appeals in state court have been resolved and

there is no prejudice to creditors - who are the only creditors in the case - because there is sufficient equity beyond the debtor's claimed homestead exemption to pay creditors' judgement in full with interest and attorney fees. The debtor further contends that conversion could cause irreparable harm to debtor if liquidation occurs before the appeals are resolved in state court.

PRIOR HEARING

At the prior hearing on January 10, 2023, the motion was continued to allow the parties to file a stipulation that would satisfy all of the Court's concerns whether cause exists to either convert to Chapter 7 or dismiss the case.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer* (In re Nelson), 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell* (In re Ho), 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause

11 U.S.C. § 1307(c). The court engages in a "totality of circumstances" test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. *Drummond v. Welsh* (In re Welsh), 711 F.3d 1120, 1123 (9th Cir. 2013) (citing *Leavitt v. Soto* (In re Leavitt), 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated "for cause" grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz* (In re DeFrantz), 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing *In re Leavitt*, 171 F.3d at 1224).

DISCUSSION

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 Convert the Chapter 13 case filed by Drew and Elizabeth Prinz ("creditor") 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 Convert is ~~xxxxxxx~~

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 42 days' notice was provided. Dkt. 71.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 70) filed on November 28, 2022.

The Chapter 13 Trustee filed an Opposition (Dkt. 75) on December 22, 2022, opposing confirmation on the following grounds:

1. Plan fails to indicate a plan term; and
2. Plan allows a distribution for administrative expenses but does not allow a distribution to Creditor Prinz.

DISCUSSION

Trustee asserts he is not able to administer the plan as proposed as suggests language in the order confirming that the Trustee shall disburse funds to Counsel for Judgement Creditor to be held in his trust account.

At the prior hearing on January 10, 2023 the parties represented they had been in contact and were working on a stipulation and additional provisions in the order confirming the plan.

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The Motion is denied, and the plan is not 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 Confirm filed by the debtor, Robert Francis Koehler, Jr., 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 denied, and the plan is not confirmed.

5. [22-22847](#)-C-13 RAVINESH/SHARITA PAL CONTINUED OBJECTION TO
[RDG](#)-1 Jason Borg CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-20-22 [[13](#)]

Final Ruling: No appearance at the February 7, 2023 hearing is required.

The Objection to Confirmation is dismissed without prejudice.

The trustee having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Objection to Confirmation was dismissed without prejudice, the matter is removed from the calendar, and the Chapter 13 Plan filed on November 2, 2022, is confirmed.**

Counsel for the debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Trustee for approval as to form, and if so approved, the Trustee will submit the proposed order to the court.

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 19 days' notice was provided. Dkt. 16.

The Motion to Extend the Automatic Stay is granted.

Debra L. Thompson ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on January 5, 2023, after Debtor became delinquent in plan payments to the Chapter 13 Trustee. Order, Bankr. E.D. Cal. No. 19-26029, Dkt. 171. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, debtor states that the instant case was filed in good faith, the debtor has a stable job and the plan is confirmable and likely to succeed.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at *6 (Bankr. D. Haw. June 22, 2011)

(citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c) (3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

Debtor has sufficiently rebutted the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The Motion is granted, and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this 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 to Extend the Automatic Stay filed by Debra L. Thompson 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, and the automatic stay is extended pursuant to 11 U.S.C. § 362(c) (3) (B) for all purposes and parties, unless terminated by operation of law or further order of this court.

7. [22-20471](#)-C-13 NATHANIEL JONES
[RDG](#)-3 Peter Macaluso

CONTINUED MOTION TO DISMISS
CASE
11-9-22 [[72](#)]

Final Ruling: No appearance at the February 7, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 20 days' notice was provided. Dkt. 75.

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on October 11, 2022.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation. Dkts. 70 & 71.

The Motion also argues debtor is \$800 delinquent in plan payments, which is supported by declaration. Dkt. 74.

A review of the docket shows the debtor filed a Second Amended plan and corresponding Motion to Confirm on February 2, 2023. Dkts. 93 & 95.

Because it appears debtor is actively prosecuting the case, the Motion is denied without prejudice.

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, Russell Greer, 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 denied without prejudice.

8. [22-22880](#)-C-13 NIRMAL SINGH CONTINUED OBJECTION TO
[RDG](#)-1 Peter Macaluso CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-19-22 [[17](#)]

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 22 days' notice was provided. Dkt. 20.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor has failed to provide personal and corporate tax returns, and his non-filing spouses pay advices;
2. The plan is contingent upon a monthly contribution of \$2,500 that is not supported by a declaration from the unidentified person providing the contribution; and
3. Debtor has not provided information relating to the transfer of his restaurant prior to filing his case to his son.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on January 2, 2023. Dkt. 21. Debtor represents his 2021 tax returns and non-filing spouses pay advices were provided to the Trustee. Debtor further represents he provided a signed statement by debtor stating his beer and wine license was transferred in 2019.

DISCUSSION

At the prior hearing, counsel for debtor represented he and counsel for the trustee were working to resolve all issues.

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 provided the trustee with all required pay advices. 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not explained the transfer of his restaurant and has supplied insufficient information relating to the transfer of the restaurant to assist the Chapter 13 Trustee in determining the feasibility of the plan.

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, Russell Greer, 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.

9. [22-22980](#)-C-13 VALERIE RAMIREZ
[PGM](#)-2 Peter Macaluso

MOTION TO VALUE COLLATERAL OF
FAST AUTO LOANS, INC.
1-3-23 [[34](#)]

Final Ruling: No appearance at the February 7, 2023 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 35 days' notice was provided. Dkt. 38.

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 Value is granted.

The debtor filed this Motion seeking to value the portion of Fast Auto Loan, Inc.'s ("Creditor") claim secured by the debtor's property commonly known as 2016 Honda Civic (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was 6,500.00. Declaration, Dckt. 36.

DISCUSSION

Upon review of the record, the court finds the value of the Property is \$6,500.00. There are no senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$6,500.00. 11 U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Fast Auto Loan, Inc. ("Creditor") secured by property commonly known as 2016 Honda Civic (the "Property") is determined to be a secured claim in the amount of \$6,500.00, and the balance of the

claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

10. [22-22980](#)-C-13 VALERIE RAMIREZ
[PGM](#)-3 Peter Macaluso

MOTION TO VALUE COLLATERAL OF
TITLEMAX OF CALIFORNIA, INC.
1-3-23 [[39](#)]

Final Ruling: No appearance at the February 7, 2023 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 35 days' notice was provided. Dkt. 43.

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 Value is granted.

The debtor filed this Motion seeking to value the portion of TitleMax of California's ("Creditor") claim secured by the debtor's property commonly known as 2005 Toyota Tacoma (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$6,000.00. Declaration, Dckt. 42.

DISCUSSION

Upon review of the record, the court finds the value of the Property is \$6,000.00. There are no senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$6,000.00. 11 U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of TitleMax of California ("Creditor") secured by property commonly known as 2005 Toyota Tacoma (the "Property") is determined to be a secured

claim in the amount of \$6,000.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

11. [22-22980](#)-C-13 VALERIE RAMIREZ
[RDG](#)-1 Peter Macaluso

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-29-22 [[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 26 days' notice was provided. Dkt. 32.

The Objection to Confirmation of Plan is Overruled.
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The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan relies on a motions to value collateral that have not been granted yet.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on January 16, 2023. Dkt. 44. Debtor represents the motions to value collateral are set to heard on February 7, 2023 and requests a continuance of this motion for that date.

DISCUSSION

The plan proposes valuing the secured claims of Fast Auto Loans and Title Max. The court has now granted the motions to value, which is the trustee's only objection.

No other grounds for objection remaining, it appears the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Objection is overruled, 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 Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Russell Greer, 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 overruled, and the debtor's Chapter 13 Plan (Dkt. 3), is confirmed. Counsel for the debtor 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 Chapter 13 Trustee will submit the proposed order to the court.

12. [22-23085](#)-C-13 GURVINDER VADAI
[RDG](#)-1 Robert Fong

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
1-17-23 [[13](#)]

Thru #13

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 21 days' notice was provided. Dkt. 16.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor is \$780.00 delinquent in plan payments and has not made a plan payment yet;
2. Debtor has failed to provide the Attachment to Schedule I providing debtor's business income and expenses;
3. Debtor and debtor's non-filing spouse have not provided all 2022 1099 statements and have not provided more detailed, itemized income and expenses; and
4. Debtor has failed to amend the Statement of Financial Affairs relating to debtor's ownership interest in Trucking General Freight.

DISCUSSION

The debtor is \$780 delinquent in plan payments. Declaration, Dkt. 15. 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 filed all business documents including profit and loss statements with itemized income and expenses. 11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1) & (a)(6).

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, Russell Greer, 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.

13. [22-23085](#)-C-13 GURVINDER VADAI
[RPM](#)-1 Robert Fong

OBJECTION TO CONFIRMATION OF
PLAN BY DAIMLER TRUCK FINANCIAL
SERVICES USA LLC
1-18-23 [[17](#)]

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 20 days' notice was provided. Dkt. 21.

The Objection to Confirmation of Plan is sustained.

Creditor, Daimler Truck Financial Services USA, LLC, Assignee of Mercedes-Benz Financial Services USA LLC ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to provide for creditor's claim.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the claim as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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 Daimler Truck Financial Services USA, LLC, 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.

14. [22-22787](#)-C-13 AMRIT LAL
[FWP](#)-1 Anh Nguyen

MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR AND/OR
MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGEABILITY OF A DEBT
1-24-23 [[25](#)]

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 19 days' notice was provided. Dkt. 16.

**The Motion to Extend Deadline to File a Complaint
Objecting to Discharge and/or to File a Complaint
Objecting to the Dischargeability of a Debt is granted.**

EBF Holdings LLC dba Everest Business Funding, a Delaware LLC, ("Movant") moves to extend the deadline to file a complaint objecting to Amrit Lal's ("Debtor") discharge and dischargeability of debt.

The deadline for filing a complaint objecting to discharge is February 13, 2023. Dkt. 13. The Motion requests that the deadline to object to Debtor's discharge be extended through April 14, 2023.

The court may, on motion and after a noticed hearing, extend the time for objecting to the entry of discharge for cause. FED. R. BANKR. P. 4004(b)(1). The court may extend that deadline where the request for the extension of time was filed prior to the expiration of time for objection. *Id.*

The instant Motion was filed on January 24, 2023, after the deadline to object to the discharge of Debtor. The movant and debtor have filed a stipulation agreeing to the extension. Dkt. 26.

Therefore, the Motion is granted, and the deadline for Movant to object to Debtor's discharge and/or to file a complaint objecting to the dischargeability of a debt is extended through April 14, 2023.

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 Extend Deadline to File a Complaint Objecting to Debtor's Discharge and/or File a Complaint Objecting to the Dischargeability of a Debt filed by EBF Holdings LLC dba Everest Business Funding, a Delaware LLC, ("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 Motion is granted, and the deadline for Movant to file a complaint objecting to Debtor's discharge or to file a complaint objecting to the dischargeability of a debt is extended through April 14, 2023.