

**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: February 15, 2022

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

February 15, 2022 at 1:00 p.m.

1. [09-41100](#)-B-13 FRANCISCO COLOMA AND MOTION FOR SANCTIONS AGAINST
[21-2065](#) SOLEDAD BATOON AP-1 DEBTOR'S ATTORNEY FOR
COLOMA ET AL VS. MISCONDUCT UNDER FRBP 9011
1-14-22 [[13](#)]

CASE DISMISSED: 2/8/22

Final Ruling

The case was dismissed on February 8, 2022. The motion was denied by an order from chambers filed on February 8, 2022. No appearance is required.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

February 15, 2022 at 1:00 p.m.

2. [21-23701](#)-B-13 BEN MACKIE
[RDG](#)-1 Robert W. Fong

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-20-21 [[14](#)]

Final Ruling

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed October 27, 2021, will be confirmed.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED and 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.

The court will issue an order.

3. [22-20120](#)-B-13 JUAN/MARIA SALAS
[PGM](#)-1 Peter G. Macaluso

MOTION TO EXTEND AUTOMATIC STAY
1-28-22 [[14](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to grant the motion to extend automatic stay.

Debtors seek to have the provisions of the automatic stay provided by 11 U.S.C. § 362(c)(3) extended beyond 30 days in this case. This is the Debtors' second bankruptcy petition pending in the past 12 months. The Debtors' prior bankruptcy case was dismissed on November 23, 2021, for failure to make payments due under the plan (case no. 19-24282, dkt. 123 Notice of Entry of Dismissal). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018).

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 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, 209-210 (2008).

The Debtors assert that the previous Chapter 13 case was filed because Debtors were behind on home mortgage payments and when the COVID-19 pandemic began, automobile repair shops closed, preventing co-Debtor Juan Salas from finding employment. The instant case was filed in order to pay off debts with the help of newly secured employment by co-Debtor Juan Salas. Debtors' daughters will also be contributing to aid in monthly plan payments. See Dkt. 10 and Dkt. 11. Further, Debtors' Schedule I indicates a monthly income of \$5,518.78, while the Debtors' Schedule J indicates reasonable and necessary monthly expenses of \$1,868.78. See Dkt. 1. Debtors have shown an ability to fund the current plan in order to obtain a discharge.

The Debtors have sufficiently rebutted, by clear and convincing evidence, 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 will be 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 motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

4. [19-25927](#)-B-13 TOBIAS GOMEZ
[BLF](#)-6 Richard Kwun
Thru #6

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF BAKKEN LAW FIRM
FOR LORIS L. BAKKEN, TRUSTEES
ATTORNEY(S)
1-21-22 [[76](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition, and may appear at the hearing to offer oral argument.

The court's decision is to **conditionally grant the motion for compensation and continue the matter to February 22, 2022 at 1:00 p.m.**

Fees and Costs Requested

Loris L. Bakken ("Movant"), the attorney to Chapter 7 Trustee makes a first and final request for the allowance of \$3,185.00 in fees and \$249.59 in expenses. The period for which the fees are requested is for July 8, 2021 through February 1, 2022. The order of the court approving employment of Applicant was entered on July 8, 2021. Dkt. 39.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) legal advice and rendering legal services to the Trustee, (2) general case administration, (3) employment of a realtor and investigation of the sale of real property, and (4) reviewing and responding to Debtor's motion to convert to Chapter 13. Dkt. 80. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

The modified plan filed on February 5, 2022, and set for hearing on March 22, 2022, also provides for the allowance and payment of these fees which were incurred in the chapter 7 case before this case was reconverted to a chapter 13 case on January 19, 2022. See Dkts. 72, 105-108.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$3,185.00
Costs and Expenses	\$ 249.59

The motion is conditionally granted for fees of \$3,185.00 and costs and expenses of \$249.59.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, February, 18 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 22, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 22, 2022, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED and CONTINUED to February 22, 2022 at 1:00 p.m. for reasons stated in the minutes.

5. [19-25927](#)-B-13 TOBIAS GOMEZ MOTION FOR COMPENSATION FOR
[BLF](#)-7 Richard Kwun GARY R. FARRAR, CHAPTER 7
TRUSTEE(S)
1-21-22 [[82](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition, and may appear at the hearing to offer oral argument.

The court's decision is to conditionally grant the motion for compensation and continue the matter to February 22, 2022 at 1:00 p.m.

Fees and Costs Requested

Gary Farrar ("Movant"), Chapter 7 Trustee, makes his first and final request for the allowance of \$1,960.00 based on an hourly rate of \$300.00. The period for which the fees are requested is for July 6, 2021, through February 1, 2021.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) normal trustee's duties, (2) employing Loris L. Bakken as counsel and Bob Brazeal as realtor to value Debtors' real property and to list and market the property for sale, (3) evaluating the sale of real property to utilize nonexempt equity to pay all unsecured claims, and (4) reviewing Debtors' motion to convert to chapter 13. Dkt. 85. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

The modified plan filed on February 5, 2022, and set for hearing on March 22, 2022, also provides for the allowance and payment of these fees which were incurred in the chapter 7 case before this case was reconverted to a chapter 13 case on January 19, 2022. See Dkts. 72, 105-108.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$1,960.00
Costs and Expenses	\$ 0.00

The motion is conditionally granted for fees of \$1,960.00 and costs and expenses of \$0.00.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, February, 18 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee

and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 22, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 22, 2022, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED and CONTINUED to February 22, 2022 at 1:00 p.m. for reasons stated in the minutes.

6. [19-25927](#)-B-13 TOBIAS GOMEZ MOTION FOR COMPENSATION FOR
[BLF](#)-8 Richard Kwun REMAX EXECUTIVE, REALTOR(S)
1-21-22 [[87](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court's decision is to conditionally grant the motion for compensation and continue the matter to February 22, 2022 at 1:00 p.m.

Fees and Costs Requested

Bob Brazeal ("Movant"), realtor to the Chapter 7 Trustee, makes his first and final request for the allowance of \$302.50 based on an hourly rate of \$110.00. The period for which the fees are requested is for July 7, 2021, through July 20, 2021.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) research of public records, comparable sales, and establishing the valuation and possible equity to Debtors' real property, (2) physically inspecting the interior and exterior of the real property, and (3) updating projected value and equity of the real property. Dkt. 91. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

The modified plan filed on February 5, 2022, and set for hearing on March 22, 2022, also provides for the allowance and payment of these reasonable and necessary fees which were incurred in the chapter 7 case before this case was reconverted to a chapter 13 case on January 19, 2022. See Dkts. 72, 105-108.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$302.50
Costs and Expenses	\$ 0.00

The motion is conditionally granted for fees of \$302.50 and costs and expenses of \$0.00.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, February, 18 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 22, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 22, 2022, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED and CONTINUED to February 22, 2022 at 1:00 p.m. for reasons stated in the minutes.

7. [21-23144](#)-B-13 RUPERTO IDEMNE AND MOTION TO CONFIRM PLAN
[WSS](#)-1 JOSEPHINE MOMBAY 1-24-22 [[36](#)]
W. Steven Shumway

Final Ruling

The motion has not been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). Only 22 days of notice was given. The motion is denied without prejudice.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

8. [16-27373](#)-B-13 KALISE ELLERBY MOTION TO MODIFY PLAN
[MET](#)-4 Mary Ellen Terranella 1-4-22 [[66](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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.

The court will issue an order.

9. [19-23989](#)-B-13 WILLIAM/ELVIRA VARQUEZ
[HWW](#)-7 Hank W. Walth

MOTION TO WAIVE FINANCIAL
MANAGEMENT COURSE REQUIREMENT,
WAIVE SECTION 1328 CERTIFICATE
REQUIREMENT, CONTINUE CASE
ADMINISTRATION, AND BE
APPOINTED AS SUCCESSOR AS TO
DEBTOR
1-30-22 [[89](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to conditionally grant the motion and substitute Joint Debtor to continue administration of the case, and waive the deceased Debtor's certification otherwise required for entry of a discharge and continue the hearing to February 22, 2022.

Joint Debtor Elvira Varquez gives notice of the death of her husband Debtor William Varquez and requests the court to substitute Elvira Varquez in place of William Varquez for all purposes within this Chapter 13 proceeding.

Discussion

Local Bankruptcy Rule 1016-1(b) allows the moving party to file a single motion, pursuant to Federal Rule of Civil Procedure 18(a) and Federal Rules of Bankruptcy Procedure 7018 and 9014(c), asking for the following relief:

- 1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];
- 2) Continued administration of a case under chapter 11, 12, or 13 (Fed. R. Bankr. P. 1016);
- 3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and
- 4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications (11 U.S.C. § 1328).

In sum, the deceased debtor's representative or successor must file a motion to substitute in as a party to the bankruptcy case. The representative or successor may also request a waiver of the post-petition education, and a waiver of the certification requirement for entry of discharge "to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications." LBR 1016-1(b)(4).

Based on the evidence submitted, the court will grant the relief requested, specifically to substitute Elvira Varquez for William Varquez as successor-in-interest, and to waive the § 1328 and financial management course requirements for Elvira Varquez. The continued administration of this case is in the best interests of all parties and no opposition being filed by the Chapter 13 Trustee or any other parties in

interest.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, February 18, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 22, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 22, 2022, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED and CONTINUED to February 22, 2022 at 1:00 p.m. for reasons stated in the minutes.

10. [21-20893](#)-B-13 JARED GOODRICH
[MKM](#)-2 Michael K. Moore

MOTION TO MODIFY PLAN
1-5-22 [[46](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 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). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the plan fails to specify a cure of the post-petition arrearage owed to Rushmore Loan Management Services ("Creditor") in Class 1 for months October 2021, November 2021, December 2021, and January 2022, in the amount of \$5,138.08. The plan does not comply with 11 U.S.C. § 1325(a)(1).

Second, the plan provides for the arrears due to Creditor to be paid a monthly dividend of \$583.00. As of January 2022, the balance of arrears owed to Creditor totals \$32,633.17 and there are 51 months remaining in the plan term. The monthly dividend proposed for the Class 1 arrearage claim of Creditor will take 56 months to pay said claim. Accordingly, the plan will take approximately 65 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Third, as of January 2022, the balance of attorney's fees owed totals \$2,000.00 and there are 51 months remaining in the plan term. The \$34.00 monthly dividend proposed in the plan will take 59 months to pay said claim. Accordingly, the plan will take approximately 68 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Fourth, confirmation of Debtor's current plan was contingent upon general unsecured creditors receiving 100% plus interest at the Federal Judgment Rate of 0.8%. Debtor's proposed plan is absent this condition, and accordingly fails the liquidation test of 11 U.S.C. § 1325(a)(4).

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

11. [21-24098](#)-B-13 JOHN FORDON
[RJ-2](#) Richard L. Jare

MOTION TO CONFIRM PLAN
1-4-22 [[24](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 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). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

Trustee and Creditor PHH Mortgage Corporation ("PHH") oppose confirmation of Debtor's plan on the grounds that the plan is not feasible. PHH filed a timely proof of claim on January 18, 2021 stating a secured claim in the amount of \$218,408.62, and pre-petition arrears in the amount of \$45,141.68. However, Debtor's Plan provides for PHH with pre-petition arrears in the amount of \$36,572.35 to be paid at zero percent interest a monthly dividend of \$795.05 beginning in month 15. Dkt. 13, p. 3. The plan provides an average monthly payment of \$5,086.67. Based on the claims filed to date, including the claim of PHH, the Debtor's average monthly plan payment will need to be at least \$5,251.00 in order for the plan to be feasible as proposed. 11 U.S.C. § 1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.