

**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: March 4, 2025

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.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

March 4, 2025 at 1:00 p.m.

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1. [24-21500](#)-B-13 NATASHA JACKSON MOTION TO CONFIRM PLAN
[JBR](#)-7 Jennifer B. Reichhoff 1-20-25 [[108](#)]
Thru #2
WITHDRAWN BY M.P.

Final Ruling

The Debtor having filed a notice of withdrawal for the pending motion, the withdrawal being consistent with any opposition filed to the motion, the court interpreting the notice of withdrawal to be an ex parte motion pursuant to Fed. R. Civ. P. 41(a)(2) and Fed. R. Bankr. P. 9014 and 7014 for the court to dismiss without prejudice the motion, and good cause appearing, the motion is dismissed without prejudice.

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

2. [24-21500](#)-B-13 NATASHA JACKSON MOTION TO VALUE COLLATERAL OF
[JBR](#)-8 Jennifer B. Reichhoff ILWU CREDIT UNION
1-20-25 [[112](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 deny without prejudice the motion to value collateral of ILWU Credit Union.

Debtor moves to value the secured claim of ILWU Union ("Creditor"). Debtor is the owner of a 2021 Kia K5 ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$11,711.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 6-1 filed by I.L.W.U. Credit Union is the claim which may be the subject of the present motion.

March 4, 2025 at 1:00 p.m.

Discussion

The court finds issue with Debtor's valuation. First, the declaration states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third-party industry source and, therefore, Debtor's opinion of value is based on hearsay. Fed R. Evid. 801-803; see also *In re Guerra*, 2008 WL 3200931, *2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, Debtor's exhibits show that valuation is based on the "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. See 11 U.S.C. § 506(a).

In the Chapter 13 context, the replacement value of personal property used by debtors for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2). The time value is determined is the date of filing of the petition without deduction for costs of sale or marketing. *Id.*

The Debtor has not persuaded the court regarding her position for the value of the Vehicle. The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

3. [24-20702](#)-B-13 CRAIG GILMORE MOTION TO CONFIRM PLAN
[GMW](#)-4 G. Michael Williams 1-15-25 [[91](#)]
Thru #4

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 fourth amended plan.

First, Debtor will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Specifically, no monthly dividends are provided for the mortgage claims held by JPMorgan Chase Bank and Federal Home Loan Mortgage Corporation in Class 2 of the plan, and Debtor is delinquent \$3,312.00 with an additional plan payment of \$1,104.00 coming due on February 25, 2025.

Second, the Disclosure of Compensation of Attorney for Debtor form filed January 15, 2025, is incorrect and does not match that of the form provided on the Eastern District of California court's website. Additionally, the attorney fee dividend will need to be increased to \$250.00 per month to comply with Local Rule 2016-1(c)(4).

Third, the motion to confirm fails to comply with Local Rule 9014-1(c)(3) because it has been assigned a docket control number that was previously used in the same case.

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.

4. [24-20702](#)-B-13 CRAIG GILMORE OBJECTION TO CONFIRMATION OF
[RAS](#)-1 G. Michael Williams PLAN BY CREDITOR FEDERAL HOME
LOAN MORTGAGE CORPORATION
2-17-25 [[102](#)]

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 fourth amended plan.

First, objecting creditor Federal Home Loan Mortgage Corporation ("Creditor") holds a deed of trust secured by Debtor's residence. The creditor has filed a timely proof of claim in which it asserts \$10,557.46 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

Second, Creditor's claim is misclassified in Class 2 and should be treated as a Class 1 since arrears are owing, the claim is not being modified, and the maturity date is after the completion of the plan. 11 U.S.C. § 1325(a)(1).

Third, the plan is not feasible pursuant to 11 U.S.C. §1325(a)(6). Debtor's schedules show insufficient income to provide for complete payment of the pre-petition arrears during the proposed 36-month plan.

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.

5. [24-22459](#)-B-13 JAMIE BRIDGEMAN
[MKM](#)-2 Michael K. Moore

MOTION TO CONFIRM PLAN
1-23-25 [[76](#)]

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 second amended plan.

Debtor is delinquent \$19,145.00 in plan payments. The next scheduled payment of \$11,450.00 is due on February 25, 2025. Debtor has paid only \$38,475.00 into the plan to date. Debtor may not be able or willing to make plan payments based on the delinquency under the plan. 11 U.S.C. §§ 1325(a)(2), (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.

6. [24-25459](#)-B-13 CELESTE/JAMES BURNS MOTION TO CONFIRM PLAN
[KJC](#)-1 Charles L. Hastings 1-22-25 [[23](#)]
Thru #7
DEBTOR DISMISSED: 02/14/25

Final Ruling

The case having been dismissed on February 14, 2025, the motion to confirm plan is denied as moot.

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

The court will issue an order.

7. [24-25459](#)-B-13 CELESTE/JAMES BURNS OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Charles L. Hastings PLAN BY LILIAN G. TSANG
2-13-25 [[32](#)]
DEBTOR DISMISSED: 02/14/25

Final Ruling

The case having been dismissed on February 14, 2025, the objection to confirmation of plan is overruled as moot.

The motion is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

8. [24-25871](#)-B-13 MARICHELL BAUTISTA
[DWE](#)-1 James L. Keenan
Thru #9

OBJECTION TO CONFIRMATION OF
PLAN BY FREEDOM MORTGAGE
CORPORATION
2-13-25 [[13](#)]

Final Ruling

The *initial* Chapter 13 Plan filed January 13, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to March 11, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, objecting creditor Freedom Mortgage Corporation ("Creditor") holds a deed of trust secured by Debtor's residence. The creditor has filed timely Claim No. 13-1 in which it asserts \$5,348.67 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

Second, Creditor's claim is misclassified as a Class 4 claim. Class 4 claims are reserved for secured claims that are not in default. Since Creditor's claim is in default per the proof of claim, the claim must be provided for in Class 1 of the plan. 11 U.S.C. § 1325(a)(1).

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

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on March 7, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained 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 March 11, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 11, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED for reasons stated in the minutes.

The court will issue an order.

9. [24-25871](#)-B-13 MARICHELL BAUTISTA
[LGT](#)-1 James L. Keenan

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-13-25 [[16](#)]

Final Ruling

The *initial* Chapter 13 Plan filed January 13, 2025, is not confirmable and the

objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to March 11, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the plan provides for Freedom Mortgage, secured by Debtor's residence, as a Class 4 creditor. On February 12, 2025, Freedom Mortgage filed a Claim No. 13-1. According to the proof of claim, there are pre-petition arrears in the amount of \$5,348.67. Class 4 claims are reserved for secured claims that are not in default. Since the claim of Freedom Mortgage is in default per the proof of claim, the claim must be provided for in Class 1 of the plan. 11 U.S.C. § 1325(a)(1).

Second, Debtor provided for the Internal Revenue Service ("IRS") and Franchise Tax Board ("FTB") in Class 2 of the plan. However, no claim amounts or monthly dividends were provided. The IRS and FTB are only listed on Schedule E as priority creditors and are not listed on Schedule D as secured creditors. Feasibility cannot be properly assessed. 11 U.S.C. § 1325(a)(6).

Third, Section 3.06 lists attorney's fee dividend of \$117.00. Per Local Rule 2016-1(c)(4)(B): "[a]fter confirmation of the debtor(s)' plan, the Chapter 13 trustee shall pay debtor(s)' counsel equal monthly installments over the term of the most recently confirmed Chapter 13 plan a sum equal to the flat fee prescribed by subdivision (c)(1) less any retainer received. Debtor(s)' counsel is enjoined from front-load payment of fees and/or costs." The attorney fee dividend will need to be reduced to \$116.67 per month to comply with Local Bankruptcy Rule 2016-1(c).

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

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on March 7, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained 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 March 11, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 11, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED for reasons stated in the minutes.

The court will issue an order.

10. [24-21474](#)-B-13 ERICK LUQUE GUTIERREZ AND MOTION FOR COMPENSATION FOR
[RWF](#)-1 MARIA SANCHEZ DE LUQUE ROBERT W. FONG, DEBTORS
Robert W. Fong ATTORNEY(S)
1-31-25 [[41](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 grant the motion for compensation.

Robert W. Fong ("Movant"), the attorney to Chapter 13 Debtors, applies for the allowance of an additional \$7,245.00 in fees for this case. As reflected in the Disclosure of Compensation of Attorney for Debtor(s) pursuant to Rule 2016(b) filed in this case, Movant originally agreed to accept \$12,000.00 for legal services. Of that amount, \$3,000.00 was received prior to the filing of the petition.

Debtors and Movant had opted for the "no look fee" at the nonbusiness level of \$12,000.00, though the Order Confirming Plan provides that "Pursuant to paragraph 3.05 of the chapter 13 plan, Debtors' attorney shall be filing separate motion for allowance and approval of his attorney's fees pursuant to Local Bankruptcy Rule 2016-1(b).

After deducting the initial \$3,000.00 that Movant has already received, Movant requests additional fees of \$4,245.00, to be paid by the Chapter 13 Trustee from Debtors' monthly plan payments. Movant also requests reimbursement for expenses of \$35.77.

Discussion

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 from March 2024 through January 2025 included meeting with clients; phone calls with clients; emails with clients; drafting and reviewing petition, schedules, plan, and related documents; preparing for and attending meetings of creditors; reviewing and replying to the Trustee's objection to confirmation; reviewing Notice of Filed Claims and corresponding with Debtors regarding the notice; and the drafting of the application for additional fees. Dkt. 44. Movant states that he expended 20.7 hours of service at an hourly rate of \$350.00, which totals \$7,245.00. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

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

Fees	\$4,245.00
Costs and Expenses	\$ 350.00

The motion is ORDERED GRANTED for fees of \$4,245.00 and costs and expenses of \$350.00.

The court will issue an order.

11. [24-22675](#)-B-13 RATTANA POK
[GMW](#)-2 G. Michael Williams
DEBTOR DISMISSED: 01/30/25

MOTION TO CONFIRM PLAN
1-14-25 [[53](#)]

Final Ruling

The case having been dismissed on January 30, 2025, the motion to confirm plan is denied as moot.

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

The court will issue an order.

12. [24-25880](#)-B-13 VALERIE/NICHOLAS KACKLEY OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Colby D. LaVelle PLAN BY LILIAN G. TSANG
2-7-25 [[19](#)]

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal 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 January 13, 2025, 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 for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

13. [24-25789](#)-B-13 JULIUS/CHARMAINE OBJECTION TO CONFIRMATION OF
[LGT](#)-1 KALEHUAWHEHE PLAN BY LILIAN G. TSANG
Pauldeep Bains 2-11-25 [[14](#)]

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal 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 December 27, 2024, 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 for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

14. [24-25690](#)-B-13 RAYLA NEELEY
[LGT](#)-1 Mark Shmorgon

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-10-25 [[40](#)]

CONTINUED TO 3/11/25 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 3/05/25.

Final Ruling

No appearance at the March 4, 2025, hearing is required. The court will issue an
order.

15. [22-23294](#)-B-13 MAZHAR KHAN
[23-2033](#) MAK-1
BHULLAR V. KHAN

MOTION TO REQUIRE ACCOUNTING
AND DISGORGEMENT OF UNEARNED
FEES
1-28-25 [[68](#)]

ADVERSARY PROCEEDING CLOSED:
01/24/25

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 and a reply were 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 deny the motion to require accounting and disgorgement of fees.

Debtor Mazhar Khan ("Debtor"), representing himself pro se, requests accounting and disgorgement of fees that were paid to attorney Peter G. Macaluso ("Counsel") for adversary proceeding services that Debtor believes were charged at an excessive rate and inflated.

Counsel untimely filed an opposition stating that Debtor and Counsel had agreed to a flat fee of \$10,000, which was a rate that Debtor had negotiated. Counsel states that he represented Debtor to a successful outcome in the adversary proceeding, and that he provided Debtor with a detailed billing statement that exceeded the amount paid. In other words, the flat fee paid by Debtor was less than the hourly rate that would otherwise have been charged by Counsel. Counsel asserts that because compensation was a flat fee, the request for disgorgement should be denied. Counsel also requests that the court deem its response timely filed due to a calendaring error.

Discussion

Flat fees are permissible under Local Bankr. R. 2016-1(c). Use of a flat fee is an attorney's offer to provide basic services for an agreed amount in exchange for receiving compensation without the necessity of filing a fee application. See generally, Keith M. Lundin, CHAPTER 13 BANKRUPTCY § 294.1 (3d ed.2002) (cited in *In re Eliapo*, 298 B.R. 392, 394 (9th Cir. BAP 2003)). This provides the debtor, attorney, other parties, and the court with a reasonable, cost-effective method of fee determination for the legal services an attorney provides to a debtor. In the spirit of a flat fee, individual legal services are not given values or rates and, therefore, cannot be deemed to be excessive or inflated.

Given the aforementioned, the court denies Debtor's request to require accounting and disgorgement of fees under Local Bankr. R. 2016-1(c)(1)(A)(iii).

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

The court will issue an order.

16. [24-23494](#)-B-13 KRISTINA LINCOLN
[ES-1](#) Eric L. Seyvertsen

MOTION TO CONFIRM PLAN
1-21-25 [[44](#)]

Final Ruling

The motion has 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). 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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

17. [24-25697](#)-B-13 ROMAN/ALIONA BEJENARI
[JCW](#)-1 Mark Shmorgon
OBJECTION TO CONFIRMATION OF
PLAN BY CAPITAL ONE AUTO
FINANCE
1-31-25 [[21](#)]

Final Ruling

Creditor Capital One Auto Finance and debtors Roman Bejenari and Aliona Bejenari entered into a stipulation resolving the objection to confirmation. Creditor's objection is deemed withdrawn. See dkt. 28. Therefore, the objection to confirmation is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) 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 December 19, 2024, 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 for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

18. [23-24098](#)-B-13 TODD GIBBS
[SLH](#)-1 Seth L. Hanson

MOTION TO MODIFY PLAN
1-21-25 [[34](#)]

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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

19. [24-24537](#)-B-13 HARPREET SINGH
[LGT](#)-2 Kristy A. Hernandez

CONTINUED MOTION TO DISMISS
CASE
2-7-25 [[39](#)]

Final Ruling

This matter was continued from February 25, 2025, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 28, 2025. Nothing was filed. Therefore, the court's conditional ruling at dkt. 43, granting the motion to convert case, shall become the court's final decision. The continued hearing on March 4, 2025, at 1:00 p.m. is vacated.

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

The court will issue an order.