

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

March 9, 2021 at 1:30 p.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

1.	20-25101 -A-13	WILLIAM/JANELL WHITE	MOTION FOR COMPENSATION FOR
	GMR -1	Timothy Walsh	GEOFFREY RICHARDS, CHAPTER 7
			TRUSTEE(S)
			1-30-21 [25]

The hearing on the Motion for Allowance of Professional Fees was rescheduled to March 16, 2021 at 9:00 a.m. before the Honorable Fredrick E. Clement.

2. [21-20404](#)-C-13 RITA WONG
[MRL](#)-1 Mikalah Liviakis

MOTION TO VALUE COLLATERAL OF
SCHOOLSFIRST FCU
2-7-21 [[10](#)]

Final Ruling: No appearance at the March 9, 2021 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 29 days' notice was provided. Dkt. 13.

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 SchoolsFirst FCU's ("Creditor") claim secured by the debtor's property commonly known as a 2015 Nissan Pathfinder (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$17,000. Declaration, Dkt. 12.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred in November 2017, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9).

Upon review of the record, the court finds the value of the Property to be \$17,000. Therefore, Creditor's secured claim is determined to be \$17,000 per 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 SchoolsFirst FCU

("Creditor") secured by property commonly known as a 2015 Nissan Pathfinder (the "Property") is determined to be a secured claim in the amount of \$17,000, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

3. [20-24108](#)-C-13 LONNIE/MARIA FINK
[SLE](#)-1 Steele Lanphier

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 5-1
1-29-21 [[41](#)]

Thru #4

No 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 39 days' notice was provided. Dkt. 44.

The Objection to the Proof of Claim is XXXXXXX

The debtors filed this Objection to Proof of Claim, No. 5 (the "POC"), filed by the Internal Revenue Service. The POC represents that the IRS holds a \$147,356.95 claim, of which \$21,425.00 is a secured claim.

The debtor seeks a determination that the entire claim is a general unsecured non-priority debt. The debtor argues that:

(1) the debt underlying the POC is a tax debt from 2011, which was discharged in the debtors' prior Chapter 7 case, no. 16-23968.

(2) the IRS never perfected its lien because there was never a demand for payment as required by 26 U.S.C. § 6321.

DISCUSSION

A review of the docket in the debtor's prior case shows a \$226,843.49 claim of the IRS for 2010-2011 taxes that was scheduled as an unsecured debt, case, no. 16-23968, Dkt. 1. If the debtor scheduled the debt, it does not seem possible the IRS never made a demand as the debtor now suggests.

The POC also indicates the lien for the IRS' claim was recorded April 23, 2014, which was before the prior case. A chapter 7 discharge would not extinguish the IRS' lien.

Additionally, it is questionable whether the tax debt was dischargeable at all, as 11 U.S.C. § 523(a)(1)(A) provides that a Chapter 7 discharge does not apply to a debt specified in 11 U.S.C. § 507(a)(8), which is a debt for taxes due within 3 years prior to filing the petition. The period commences when the taxes are last due, including extensions. Also, the applicable time period is suspended for any period which the stay of proceedings was in effect in a prior bankruptcy case, plus 90 days.

The debtor's prior bankruptcy cases include:

13-28506	filed 6/25/2013	dismissed 12/6/2013
15-29729	filed 12/19/2015	dismissed 5/18/2016

Adding the 164 days the first case was pending, plus 90 days, and the 151 days the second case was pending, plus 90 days, and 3 years results in a 1,590 period. 1,590 days from the last day the taxes were presumably due, April 15, 2012, puts the date at August 22, 2016 and leaves the 2011 taxes within the ambits of 11 U.S.C. § 507(a)(8) as non-dischargeable debt.

At the hearing, **xxxxxxxxxxxxxx**

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 debtors 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 5 of the Internal Revenue Service is **xxxxxxxx**

No 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 48 days' notice was provided. Dkt. 38.

The Motion to Confirm is XXXXXXXX

The debtors filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 37) filed on January 20, 2021.

The trustee filed an Opposition (Dkt. 47) on February 16, 2021, opposing confirmation on the following grounds:

1. The Internal Revenue Service has filed a proof of claim on November 4, 2020 with a secured amount of \$21,425.00. The debtor's plan does not provide for this secured claim.
2. Debtor Lonnie Fink filed a change of address on January 15, 2021. If the debtors are residing in separate households, they need to file Official Form 106J-2, Expenses for Separate Household.

DISCUSSION

A review of the docket shows Official Form 106J-2, Expenses for Separate Household has yet to be filed. Additionally, the debtor's objection to the proof of claim filed by the IRS is pending.

At the hearing, XXXXXXXXXXXXXXXX

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 debtors, Lonnie Fink and Maria Luz Fink, 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 XXXXXXXX

5. [20-24912](#)-C-13 JAVIER CASTELLANOS AND
[KMM](#)-1 ALEJANDRA ALCANTAR
Richard Jare

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY U.S.
BANK NATIONAL ASSOCIATION
11-20-20 [[32](#)]

Thru #7

No 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 53 days' notice was provided. Dkt. 35.

The Objection to Confirmation of Plan is XXXXXXX

Creditor U.S. Bank National Association ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The debtor's plan provides for Creditor's claim as a Class 4 claim that is not in default. However, there is a \$13,915.98 prepetition arrearage.
2. When accounting for the prepetition arrearages, the debtors do not have sufficient income to fund the plan.

DISCUSSION

The debtors have missclassified Creditor's claim as a Class 4. While the plan provides that the proof of claim controls classification and claim amount, the Creditor has pointed out that the debtors do not appear to have sufficient funds to make increased payments necessary when accounting for prepetition arrearages.

At the prior hearing, the court granted a continuance to allow the debtor's Objection to Claim (Dkt. 49) to be heard.

At the hearing, XXXXXXXXXXXXXXXXXX

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 U.S. Bank National Association, 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 XXXXXXX

6. [20-24912](#)-C-13 JAVIER CASTELLANOS AND CONTINUED OBJECTION TO
[RDG](#)-1 ALEJANDRA ALCANTAR CONFIRMATION OF PLAN BY RUSSELL
Richard Jare D. GREER
12-10-20 [[45](#)]

No 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 days' notice was provided. Dkt. 48.

The Objection to Confirmation of Plan is XXXXXX

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

1. The debtor's Schedule B lists the debtor's interest in the business AAA Cleaning Service. The debtors have failed to provide 2 years of corporate tax returns, a year to date Profit and Loss statement, proof of license and insurance or written statements that no such documentation exists.
2. The plan proposes valuing the secured claim of American Honda Finance, and is not feasible until a motion valuing that claim is granted.
3. The debtor's plan provides for Class 2 creditors to receive increased dividends "no later than month 15" and "no later than month 26" without specifying what those months are.
4. Debtor's Petition fails to include debtor's business at Part 1 & 3. Debtor's Schedule I does not identify the address or business name for joint debtor at number 1.
5. Debtor's Form 122C-1 has not been prepared correctly. In line 5 the Debtors have deducted ordinary and necessary business expenses from gross receipts.

DISCUSSION

A review of the docket shows the court has granted the debtor's Motion (Dkt. 37) seeking to value the secured claim of American Honda Finance.

However, the debtors have not provided 2 years of corporate tax returns, a year to date Profit and Loss statement, proof of license and insurance or written statements that no such documentation exists for the debtor's business. Those documents are required per 11 U.S.C. § 521(e)(2)(A).

The debtors have also prepared their Form 122C-1 incorrectly by deducting business expenses, incorrectly indicating they do not have a

business at questions 4 and 12 on the Petition, and have not clearly specified in the plan when increased dividends to Class 2 creditors commence.

At the hearing, **xxxxxxxxxxxxxxxx**

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 **xxxxxx**

7. [20-24912](#)-C-13 JAVIER CASTELLANOS AND OBJECTION TO CLAIM OF U.S. BANK
[RJ-4](#) ALEJANDRA ALCANTAR NATIONAL ASSOCIATION, CLAIM
Richard Jare NUMBER 15
1-11-21 [[49](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b)(1) procedure which requires 44 days' notice. The Proof of Service shows that 57 days' notice was provided. Dkt. 50.

The Objection to the Proof of Claim is XXXXXXXXXX

The debtors filed this Objection to Proof of Claim, No. 15, filed by U.S. Bank National Association seeking a determination that the asserted prepetition arrearage of \$14,111.78 is no longer owing because a loan modification incorporated that arrearage into the subordinate partial claim deed of trust.

The subordinate partial claim deed of trust (Dkt. 53) is a HUD loan executed October 27, 2020, and recorded November 3, 2020. The debtor's declaration (Dkt. 56) attests that the loan was a COVID-19 modification made to bring the debtors current.

However, the docket does not reflect that the debtors sought court authority to incur postpetition debt. Also, stay relief was not granted for the purpose of allowing a new lien to be recorded.

At the hearing, XXXXXXXXXXXXXXXXXX

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 debtors 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 15 of U.S. Bank National Association is XXXXXXXXXX

No 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 35 days' notice was provided. Dkt. 104.

The Motion to Modify Plan is ~~XXXXXXXXXX~~

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 103) filed on February 2, 2021.

The trustee filed an Opposition (Dkt. 105) on February 17, 2021, opposing confirmation on the following grounds:

1. Section 1.02 of the plan indicates there are no additional provisions, which conflicts with the presence of additional provisions.
2. The plan mathematically requires a \$4,218.25 monthly payment, which is greater than the proposed \$4,000.00 monthly payment beginning February 2021.
3. The debtor has not filed supplemental Schedules I and J.
4. The additional provisions may be impermissibly modifying Carrington Mortgage Service's rights by forcing Carrington Mortgage Service to receive adequate protection payments rather than its contractual payment.
5. The plan proposes a loan modification, but the debtor has not filed a motion for authority to incur debt.

DISCUSSION

At the hearing, ~~XXXXXXXXXXXXXXXXXX~~

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, Antoinette Michelle Woods, 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 **xxxxxxxxxx**

Thru #10

No 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 41 days' notice was provided. Dkt. 63.

The Motion to Confirm is ~~XXXXXXXXXXXX~~

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 50) filed on September 25, 2020.

TRUSTEE'S OPPOSITION

The trustee filed an Opposition (Dkt. 64) on December 22, 2020, opposing confirmation on the following grounds:

1. Debtor has admitted that the Westlake Parkway address is not where she lives and that the address listed as her business address is her residence.
2. The trustee objects to the attorney's fees requested in the Chapter 13 Plan as they are contradictory to the fees represented in the Rights & Responsibilities filed in this case. The plan seeks \$6,000 in fees where the Rights & Responsibilities represents fees to be \$4,000.
3. The Internal Revenue Service has filed a priority claim in the amount of \$6,408.35 (Claim 3-1) and the Franchise Tax Board has filed a priority claim in the amount of \$2,281.99. Debtor's plan does not provide for these priority claims.

DEBTOR'S REPLY

The debtor filed a Reply on January 5, 2021, Dkt. 69. The debtor represents that the issues with the debtor's address and Rights and Responsibilities have been corrected. The debtor argues further that the priority tax debt is around \$5,000, which may need to be established through an objection to claim.

The debtor requests a 60-day continuance to allow the issues to be resolved.

DISCUSSION

The court continued the hearing to allow this Motion to be heard alongside the debtor's Objection to Claim (Dkt. 74), and for the remaining

grounds for opposition to be resolved.

At the hearing, ~~XXXXXXXXXXXXXXXXXX~~

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, Elsie Supnet Liberato, 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 ~~XXXXXXXXXXXX~~

10. [20-23721](#)-C-13 ELSIE LIBERATO
[GC-3](#) Gerald Glazer

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 3
1-25-21 [[74](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b) (1) procedure which requires 44 days' notice.

The Proof of Service shows that only 43 days' notice was provided. Dkt. 78.

The Objection to the Proof of Claim is XXXXXXXX

The debtor filed this Objection to Proof of Claim, No. 3, filed by the Internal Revenue Service seeking a determination that the 2018 tax debt owed by the debtor is \$0, and not the \$3,455.60 estimate stated in the POC.

The POC indicates it is based on an estimate for 2018 taxes because the 2018 return was not yet filed.

Debtor filed her declaration (Dkt. 76) attesting to the 2018 return having been filed, and that it shows she owes no taxes for 2018. However, the return itself has not been filed as an exhibit.

At the hearing, XXXXXXXXXXXXXXXX

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 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 Objection to Proof of Claim Number 3 filed by the Internal Revenue Service is XXXXXXXX

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 35 days' notice was provided. Dkt. 90.

The Motion to Modify Plan is granted.

The debtor filed this Motion seeking to confirm the Fourth Modified Chapter 13 Plan (Dkt. 91) filed on February 3, 2021.

The trustee filed an Opposition (Dkt. 97) on February 17, 2021, opposing confirmation because the post-petition arrearage of Guild Mortgage Company is overstated to be \$11,708.46 when it is actually \$11,513.93.

The debtor filed a Reply on March 1, 2021 (Dkt. 100), requesting the following language be added to the order confirming plan to address the issue:

The post-petition arrears claim of Guild Mortgage Company shall be paid as a Class 1 claim in the amount of \$11,513.93 which represent the months of March 2019, June 2019, March 2020, June 2020 through August 2020, and November 2020 through January 2021. The Class 1 claim shall receive interest rate on arrears of 0.00% and an arrearage dividend of \$195.00.

DISCUSSION

With the language suggested by the debtor, it appears to address the trustee's sole ground for opposition.

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 modified 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, Marco Antonio Castillo, 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 Modified Chapter 13 Plan filed on February 3, 2021 (Dkt. 91) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Debtor's counsel 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.

12. [17-25127](#)-C-13 KARA TALASKA
[DWE](#)-1 Thomas Amberg

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-29-21 [[46](#)]

COMMUNITY LOAN SERVICING,
LLC VS.

Final Ruling: No appearance at the March 9, 2021 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 39 days' notice was provided. Dkt. 52.

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 for Relief from the Automatic Stay is granted.

Community Loan Servicing, LLC fka Bayview Loan Servicing, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 3836 Thornwood Drive, Sacramento, California (the "Property")

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent 12 postpetition payments. Declaration, Dkt. 48.

The debtor filed a Response on January 30, 2021, indicating there is no basis to oppose the Motion. Dkt. 53.

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent 12 postpetition payments.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

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 Community Loan Servicing, LLC fka Bayview Loan Servicing, 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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 3836 Thornwood Drive, Sacramento, California ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

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.

Thru #15

No 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 41 days' notice was provided. Dkt. 80.

The Motion to Confirm is ~~XXXXXXXXXX~~

The debtors filed this Motion seeking to confirm the Second Amended Chapter 13 Plan (Dkt. 66) filed on January 25, 2021.

The trustee filed an Opposition (Dkt. 86) on February 16, 2021, opposing confirmation on the following grounds:

1. The plan relies on the court valuing the secured claim of Ready Cap Lending LLC. The court has yet to enter an order valuing that claim.
2. When accounting for trustee compensation the plan mathematically requires a \$4,506.52 payment, which is less than the proposed \$4,450.00 payment in months 1 through 11.
3. The debtors list non-exempt assets of \$7,705.00. The debtor's plan must pay 32 percent (\$7,705.00 divided by general unsecured claims of \$23,962.57) to pass the liquidation test. The proposed plan provides a 0 percent dividend.

DISCUSSION

When accounting for trustee expenses and for the increased dividend necessary to pay unsecured claims the same amount they would receive in a liquidation, the plan payment will need to be increased.

At the hearing, the parties reported ~~XXXXXXXXXXXXXXXXXX~~

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 debtors, Michael Scott Saso and Jeannine Saso, 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 ~~XXXXXXXXXX~~

14. [20-20640](#)-C-13 MICHAEL/JEANNINE SASO
[KNE](#)-4 Sarah Lampi Little

MOTION TO VALUE COLLATERAL OF
READYCAP LENDING LLC
1-25-21 [[67](#)]

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 41 days' notice was provided. Dkt. 76.

The Motion to Value Collateral is ~~xxxxxx~~.

The debtors filed this Motion seeking to value the portion of ReadyCap Lending LLC's ("Creditor") claim, which is secured by a Deed of Trust to debtor's property commonly known as 8701 Great Court, Elk Grove, California (the "Real Property"). It is also secured by a UCC Filing Statement to certain portions of the debtor's personal property, though it is not entirely clear what personal property.

As to the Real Property, the debtors have presented evidence that its replacement value at the time of filing was \$490,000, declaration, Dkt. 73. This valuation coincides with an appraisal obtained by Creditor. The Real Property is encumbered by a first and second DOT totaling \$267,310.02, Proofs of Claim, Nos. 2-1 & 4-1. Therefore, the debtors argue there is equity of \$222,690.16 supporting the secured claim as to the Real Property.

The debtors have also presented testimony as to the value of the personal property as \$22,010.00, declaration, Dkt. 73. The personal property appears to be that used in connection with one of the debtor's Papa Murphy's businesses. The debtors valuation again coincides with an appraisal obtained by Creditor, except that the debtors argue the appraisal included personal property valued at \$10,640.00 that was used in a different business and is not Creditor's collateral.

In aggregate, the debtors argue that Creditor's secured claim should be determined to be \$244,700.16.

The Creditor's Proof of Claim, No. 6-2, asserts that the Creditor's claim is fully secured in the amount of \$255,664.66, with the collateral valued at \$533,982.00. The POC indicates the collateral is "Residential real property and business personal property." The UCC Financing Statement states that the collateral is "All personal property of Debtor of every kind and nature wherever located whether now owned or hereafter acquired . . ."

DISCUSSION

As discussed, it is not clear what personal property is the Creditor's collateral. The Motion does not identify each piece of personal property. The UCC Financing Statement states that the collateral is "all personal property," not property used in connection with any specific business. Also, the UCC Financing Statement does not state that equipment from one of the debtor's stores is included and equipment from another are excluded.

At the hearing, **xxxxxxxxxxxxxx**

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 debtors 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 Value Collateral pursuant to 11 U.S.C. § 506(a) is **xxxxxxxxxx**

No 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 20 days' notice was provided. Dkt. 61.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Motion to Dismiss is XXXXXXXXXX

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtors have not confirmed a plan, and there is no pending motion seeking to confirm a plan.

At the prior hearing, the court continued this Motion to be heard alongside the debtor's Motion to Confirm Second Amended Plan.

At the hearing, XXXXXXXXXXXXXXXXXX

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 ("Trustee"), 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

16. [18-25843](#)-C-13 RICHARD DIMES-WILLIAMS MOTION TO REFINANCE
[WIL](#)-3 AND CRYSTAL 1-15-21 [[42](#)]
Yasha Rahimzadeh

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 53 days' notice was provided. Dkt. 46.

The Motion to Refinance is denied without prejudice.

The debtors, Richard Anthony Dimes-Williams and Crystal Lopez-Williams, filed this Motion seeking authority to refinance the loan secured by the debtor's primary residence 9301 Laguna Pointe Way, Elk Grove, CA.

The new loan is in the principal amount of \$214,553.00 to be repaid at 2.375 percent interest over 25 years. The monthly payment would be \$1,423.00.

The creditor holding the 1st DOT proposed to be refinanced is Quicken Loans, LLC fka Quicken Loans Inc. ("Creditor"), who filed an Opposition on February 23, 2021, Dkt. 47. The Creditor opposes the Motion on the basis that the debtors are not actually eligible for the proposed refinancing.

Exhibit D filed by the debtors is a "Loan Estimate" from the Creditor, Dkt. 45. The Creditor points out the estimate states:

"Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan."

The Creditor represents that the debtors are not qualified for the refinancing because they are in an active Chapter 13 case.

Because the debtors are not actually approved for the refinancing, and there is no agreement before the court, the Motion will be 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 Refinance filed by the debtors Richard Anthony Dimes-Williams and Crystal Lopez-Williams 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 without prejudice.

Final Ruling: No appearance at the March 9, 2021 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 47 days' notice was provided. Dkt. 41.

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 Confirm is granted.
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The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 40) filed on January 21, 2021.

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 and 1325(a). 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 Confirm filed by the debtor, Roselyn Asha Shankar, 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 Amended Chapter 13 Plan filed on January 21, 2021 (Dkt. 40) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. Debtor's counsel 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.

Final Ruling: No appearance at the March 9, 2021 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 36 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 Modify Plan is granted.

The debtor 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, Shannon Ann Hand, 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 Modified Chapter 13 Plan filed on January 29, 2021 (Dkt. 30) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Debtor's counsel 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.

19. [13-32350](#)-C-13 NICHOLAS KASSIMIS
[HLG](#)-2 Kristy Hernandez

AMENDED MOTION TO AVOID LIEN OF
MIDLAND FUNDING LLC
2-10-21 [[75](#)]

Thru #20

Final Ruling: No appearance at the March 9, 2021 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 28 days' notice was provided. Dkt. 66.

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 Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of Midland Funding, LLC ("Creditor") against property of the debtor commonly known as 1758 Hall Street, Marysville, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$6,056.78, Exhibit C, Dkt. 65. An abstract of judgment was recorded with Yuba County on June 7, 2012, that encumbers the Property.

Pursuant to Debtor's Amended Schedule A, the subject real property has an approximate value of \$84,325.00 as of the petition date, Dkt. 74. The unavoidable and senior liens that total \$170,262.75 as of the commencement of this case are stated on Debtor's Amended Schedule D, Dkt. 73. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 703.140(b)(5) in the amount of \$1.00 on Amended Schedule C, Dkt. 74.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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 Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtor Nicholas Kassimis having been presented to the court, and upon review of the

pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of Midland Funding, LLC, California Superior Court for Yuba County Case No. YCMCCVG11-0000420, recorded on June 7, 2012, with the Yuba County Recorder, against the real property commonly known as 1758 Hall Street, Marysville, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

Final Ruling: No appearance at the March 9, 2021 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 28 days' notice was provided. Dkt. 66.

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 Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of BH Financial Services, LLC ("Creditor") against property of the debtor commonly known as 1758 Hall Street, Marysville, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$5,676.38, Exhibit C, Dkt. 69. An abstract of judgment was recorded with Yuba County on October 2, 2012, that encumbers the Property. *Id.*

Pursuant to Debtor's Amended Schedule A, the subject real property has an approximate value of \$84,325.00 as of the petition date, Dkt. 74. The unavoidable and senior liens that total \$170,262.75 as of the commencement of this case are stated on Debtor's Amended Schedule D, Dkt. 73. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 703.140(b)(5) in the amount of \$1.00 on Amended Schedule C, Dkt. 74.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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 Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtor Nicholas Kassimis having been presented to the court, and upon review of the

pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of BH Financial Services, LLC, California Superior Court for Yuba County Case No. YCMCCVG12-0000223, recorded on October 2, 2012, with the Yuba County Recorder, against the real property commonly known as 1758 Hall Street, Marysville, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 35 days' notice was provided. Dkt. 169.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 168) filed on February 2, 2021.

The trustee filed an Opposition (Dkt. 178) on February 16, 2021, opposing confirmation on the following grounds:

1. The Debtor is \$2,109.75 delinquent.
2. The plan mathematically requires a payment of \$1,661.66 per month, which is greater than the proposed payment of \$996.00 in months 1 through 3, and \$1,075.25 in months 4 through 11.
3. The Plan does not provide for plan payments in months 11 through 25.
4. Stay relief was granted as to the debtor's residence. However, the plan still accounts for the mortgage and does not account for a relocation.

Creditor U.S. Bank, N.A., as trustee for Truman 2016 SC6 Title Trust ("Creditor"), filed an Opposition (Dkt. 181) on February 17, 2021, opposing confirmation on the following grounds:

1. The plan does not provide funding to pay the pre and postpetition arrearages on Creditor's claim until July 2022.
2. The plan violates 11 U.S.C. § 1325(a)(5) as it does not provide for equal monthly installments.
3. The plan has not been filed in good faith because the debtor does not provide equal monthly payments to Creditor, the debtor does not generate sufficient income to fund a plan, and this is the debtor's third consecutive Bankruptcy case in approximately 7 months and no less than his third plan.
4. Debtor's plan payments are not sufficient for the Debtor to pay the required monthly mortgage payments,

which is an impermissible modification of Creditor's claim, and a violation of § 1322(b)(2).

DISCUSSION

Creditor and the trustee's oppositions raise serious questions as to the plan's feasibility. The plan is not adequately funded to make the proposed payments, and the debtor is \$2,109.75 delinquent even with the lower than necessary payments being made. The proposed plan has not been shown by the debtor to be confirmable per 11 U.S.C. § 1325(a)(6).

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, Derek Leroy Wolf, 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.

Final Ruling: No appearance at the March 9, 2021 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 36 days' notice was provided. Dkt. 13.

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 Collateral is granted.

The debtors filed this Motion seeking to value the portion of Golden 1 Credit Union's ("Creditor") claim secured by the debtor's property commonly known as a 2017 Honda Pilot (the "Property").

The debtors have presented evidence that the replacement value of the Property at the time of filing was \$27,000, Declaration, Dkt. 12.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred in June 2017, which is more than 910 days prior to filing of the petition per 11 U.S.C. § 1325(a)(9).

Upon review of the record, the court finds the value of the Property is \$27,000. Therefore, Creditor's secured claim is determined to be \$27,000, per 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 Golden 1 Credit Union ("Creditor") secured by property commonly known as a 2017

Honda Pilot (the "Property") is determined to be a secured claim in the amount of \$27,000, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

Final Ruling: No appearance at the March 9, 2021 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 48 days' notice was provided. Dkt. 26.

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 Confirm is granted.

The debtors filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 23) filed on January 20, 2021.

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 and 1325(a). 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 Confirm filed by the debtors, Osvaldo Castro and Patricia Guadalupe Castro, 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 debtors' Amended Chapter 13 Plan filed on June 11, 2020 (Dkt. 23) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. Debtors' counsel 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.

24. [18-21262](#)-C-13 JOHN SAECHAO
[RDG](#)-1 Peter Macaluso
OBJECTION TO CLAIM OF
SACRAMENTO COUNTY DEPT OF CHILD
SUPPORT, CLAIM NUMBER 14
2-3-21 [[66](#)]

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 34 days' notice was provided. Dkt. 68.

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. 14, filed by Sacramento County Department of Child Support was filed late and should be disallowed.

The deadline for governmental units to file proofs of claim in this case was September 1, 2018, per the Notice of Bankruptcy Filing and Deadlines, Dkt. 10. The Proof of Claim subject to this Objection was filed October 8, 2019.

The debtor filed a Reply February 23, 2021, indicating non-opposition to this Objection, and noting that the debtor filed Proof of Claim No. 13, on behalf of Sacramento County Department of Child Support.

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, Russell D. 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 to Proof of Claim Number 14 of Sacramento County Dept of Child Support is sustained, and the claim is disallowed in its entirety.

Final Ruling: No appearance at the March 9, 2021 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 28 days' notice was provided. Dkt. 11.

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 Collateral is granted.

The debtor filed this Motion seeking to value the portion of JP Morgan Chase Bank, N.A.'s ("Creditor") claim secured by the debtor's property commonly known as a 2017 Subaru Legacy 2.5i Sedan 4D (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$12,320.00, Declaration, Dkt. 10.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on July 27, 2018, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9).

Upon review of the record, the court finds the value of the Property to be \$12,320.00. Therefore, Creditor's secured claim is determined to be \$12,320.00 per 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 JP Morgan Chase Bank, N.A. ("Creditor") secured by property commonly known as a 2017 Subaru Legacy 2.5i Sedan 4D (the "Property") is

determined to be a secured claim in the amount of \$12,320.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

No 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 46 days' notice was provided. Dkt. 111.

The Motion to Modify Plan is XXXXXXXXX

The debtors filed this Motion seeking to confirm the First Modified Chapter 13 Plan (Dkt. 110) filed on January 8, 2021.

The trustee filed an Opposition (Dkt. 115) on February 3, 2021, opposing confirmation on the following grounds:

1. The plan mathematically requires a payment of \$1,459.00 from January 2021 through January 2025, which is higher than the proposed \$1,300 payment.
2. The plan relies on the debtors completing their trial loan modification and obtaining approval of the permanent loan modification.
3. The plan by its terms is a 62 month period, which contradicts section 2.03's 60 month limitation.
4. The monthly dividend for the Class 2 claim of Prestige Financial Services must be \$555.57, which is higher than the proposed \$456.17 dividend.
5. The monthly dividend for the Class 2 claim of County of Sacramento Utilities must be \$92.03, which is higher than the proposed \$30.47 dividend.
6. Debtor's plan no longer provides for creditor Heritage Community Credit Union's secured claim because the collateral was totaled. The trustee is unsure whether the insurance proceeds have been applied to that creditor's claim.

DISCUSSION

At the prior hearing, the trustee noted that the plan still relies on the debtors completing the trial loan modification and obtaining a permanent loan modification, and requested a continuance to allow the debtors to do so and show the plan to be feasible.

At the hearing, XXXXXXXXXXXXXXXX

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 debtors, Vikash Singh and Sanjani Singh, 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 **xxxxxxxxxxxx**

27. [20-20083](#)-C-13 DAVID COX
[RDG](#)-1 Mikalah Liviakis

CONTINUED OBJECTION TO CLAIM OF
INTERNAL REVENUE SERVICE, CLAIM
NUMBER 9
1-21-21 [[18](#)]

No 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 33 days' notice was provided. Dkt. 20.

The Objection to Proof of Claim is XXXXXX

The Chapter 13 trustee filed this Objection arguing that Proof of Claim, No. 9, filed by Internal Revenue Service was filed late and should be disallowed.

The deadline for government entities to file proofs of claim in this case was July 6, 2020, per the Notice of Bankruptcy Filing and Deadlines, Dkt. 10. The Proof of Claim subject to this Objection was filed November 13, 2020.

DEBTOR'S RESPONSE

The debtor filed a Response on February 7, 2021, Dkt. 21. The debtor argues the Creditor's claim should be allowed because it was accurately forecasted in the Chapter 13 plan, and because the treatment does not change the distribution to unsecured creditors.

TRUSTEE'S SUPPLEMENTAL OBJECTION

The trustee filed a supplemental objection on February 26, 2021 to address the possible applicability of Federal Rule of Bankruptcy Procedure 9006(b) (1), Dkt. 25.

The trustee argues that FRBP 9006 should not apply because the time period prescribed in FRBP 3004 already expired, and because the debtor has not presented any evidence that the failure to timely file the Proof of Claim was the result of excusable neglect.

To the latter point, the trustee notes that the debt is for taxes, for which the debtor has an obligation to timely file annual returns for. The trustee requests the debtor provide a copy of the filed return to support the claim.

DISCUSSION

At the hearing, xxxxxxxxxxxxxxxx

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, Russell D. 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 to Proof of Claim Number 9 of the Internal Revenue Service is ~~XXXXXXXXXX~~

28. [16-21599](#)-C-13 CHRISTOPHER/GLEE WOODYARD MOTION FOR COMPENSATION FOR
[SS-10](#) Scott Shumaker SCOTT SHUMAKER, DEBTORS
ATTORNEY(S)
2-12-21 [[237](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 21 days' notice. The Proof of Service shows that 25 days' notice was provided. Dkt. 241.

The Motion for Allowance of Professional Fees is granted.

Scott Shumaker, the Attorney ("Applicant") for Christopher Woodyard and Glee Woodyard, the Chapter 13 Debtors ("Client"), makes a Request for the Additional Allowance of Fees and Expenses in this case.

Fees are requested for the period July 29, 2017, through February 12, 2021. Applicant requests fees in the amount of \$2,315.00.

FEES AND COSTS REQUESTED

Applicant's time records are filed as Exhibit A, Dkt. 240. The records show 4.75 hours expended of attorney time at a rate of \$350 an hour, and 2 hours of paralegal time at a rate of \$150 an hour. There is also a \$35 expense for postage and copying.

The services include review of a motion to dismiss, and prosecution of motions to confirm a modified plan and to approve a loan modification.

FEES ALLOWED

The unique facts surrounding the case, including prosecution of a modified plan and motion to approve loan modification, raise substantial and unanticipated work for the benefit of the Estate, Debtor, and parties in interest. The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. The request for additional fees and costs in the amount of \$2,315.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 13 Trustee from the available funds of the Plan in a manner consistent with the order of distribution in a Chapter 13 case under the confirmed Plan.

The court shall issue an order substantially in the following form holding that:

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

The Motion for Allowance of Fees and Expenses filed by Scott Shumaker ("Applicant"), Attorney having been presented to the court, and upon review of the pleadings,

evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Scott Shumaker is allowed the following fees and expenses as a professional of the Estate:

Scott Shumaker, Professional Employed by Christopher Woodyard and Glee Woodyard ("Debtor")

Fees and costs in the amount of \$2,315.00, as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for Debtor.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay the fees allowed by this Order from the available Plan Funds in a manner consistent with the order of distribution in a Chapter 13 case.