



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

March 18, 2024 at 1:30 p.m.

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

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

March 18, 2024 at 1:30 p.m.

-
1. [24-20009](#)-C-13 JOHN KEIFER OBJECTION TO CONFIRMATION OF
[JCW](#)-1 Pro Se PLAN BY CITIBANK, N.A.
2-29-24 [[21](#)]

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 18 days' notice was provided. Dkt. 24.

The Objection to Confirmation of Plan is sustained.

Creditor, Citibank, N.A. ("Creditor"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan fails to provide for arrears to Creditor; and
2. The plan is not feasible.

DISCUSSION

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

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

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

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

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

The Objection to the Chapter 13 Plan filed by Citibank, N.A., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

March 18, 2024 at 1:30 p.m.
Page 1 of 13

2. [24-20009](#)-C-13 JOHN KEIFER
[LGT-1](#) Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-26-24 [[17](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 20.

The Objection to Confirmation of Plan is sustained.

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

1. Debtor failed to appear at the Meeting of Creditors;
2. Debtor has failed to provide his most recent income tax returns;
3. Debtor has failed to provide evidence of his, and his non-filing spouse's, current income
4. Debtor has failed to submit a credit counseling certificate; and
5. The plan was not filed in good faith.

DISCUSSION

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Appearance is mandatory. See 11 U.S.C. § 343. Attempting to confirm a plan while failing to appear and be questioned by the Chapter 13 Trustee and any creditors who appear suggests a failure to cooperate. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

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

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

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

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

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

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

3. [24-20633](#)-C-13 DAN PRAKASH
[CRH-1](#) Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
2-22-24 [[10](#)]

EQUITY TRUST COMPANY VS.

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 25 days' notice was provided. Dkt. 16.

The Motion for Relief from the Automatic Stay is granted.

Equity Trust Company ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's property commonly known as 8065 Wagon Trail Way, 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 twenty-two postpetition and one prepetition payments. Declaration, Dkt. 12.

Movant also argues cause exists pursuant to 11 U.S.C. § 362(d) (4) because the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved a transfer of an interest in the Property without consent of the secured creditor or court approval. Movant contends that this is the fifth bankruptcy involving this property, and the debtor received an interest in the Property via grant deed that was recorded the same day as the filing of this case.

Movant further represents that the Property was placed in foreclosure in late June 2023. A recording of a notice of default occurred on June 23, 2023, the Notice of Trustee's Sale was recorded on September 22, 2023 and the initial foreclosure auction scheduled for October 27, 2023, the same day as the filing of the first case. Declaration, Dkt. 12.

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 22 postpetition and 1 prepetition payments.

Pursuant to 11 U.S.C. § 362(d) (4), the court finds ~~xxxxxxxxxx~~

Language vacating stay

Based on the foregoing, the Motion is granted. 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 Equity Trust Company ("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 8065 Wagon Trail Way, 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 above relief, pursuant to 11 U.S.C. § 362(d)(4), is **xxxxxxxxxxxx**

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.

4. [24-20043](#)-C-13 LESLIE PERRY
[LGT-1](#) Kristy Hernandez

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-26-24 [[12](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 15.

The Objection to Confirmation of Plan is sustained.

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

1. Debtor failed to appear at the Meeting of Creditors;
2. The plan does not provide for equal monthly payments for dividend for attorney's fees; and
3. The debtor and debtor's attorney have failed to file the most recent version of the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys.

The Chapter Trustee filed a supplemental objection to confirmation of the Chapter 13 plan (dkt. 19) on the basis that:

- a. Debtor appeared at the Meeting of Creditors;
- b. An amended Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys have been filed; but
- c. Debtor has failed to file amended forms that account for debtor's household of one and her disposable income.

DISCUSSION

A review of the docket shows that the debtor did appear at the continued Meeting of Creditors and the 341 Meeting has concluded as to the debtor.

The debtor has not filed all necessary documents for the Trustee to determine whether the plan provides for all of the debtor's disposable income. That is reason to deny confirmation. 11 U.S.C. § 1325(b)(1).

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

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

Findings of Fact and Conclusions of Law are stated in the

Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

5. [23-23148](#)-C-13 EILEEN ARGEL
[TLA-2](#)

MOTION TO CONFIRM PLAN
1-24-24 [[45](#)]

DEBTOR DISMISSED: 03/01/24

Final Ruling: no appearance at the March 18, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 55 days' notice was provided. Dkt. 50.

The Motion to Confirm is denied as moot.

A review of the docket shows the case was dismissed on March 1, 2024. Therefore, this Motion is denied as moot.

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

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

The Motion to Confirm filed by the debtor, Eileen Argel, 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 as moot.

6. [24-20161](#)-C-13 DANIEL GALBICK
[LGT-1](#) Anh Nguyen

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-29-24 [[12](#)]

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 18 days' notice was provided. Dkt. 15.

The Objection to Confirmation of Plan is sustained.

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

1. The plan does not provide for equal monthly dividend for attorney's fees
2. Debtor has failed to provide 2022 income tax returns;
3. Plan is not proposed in good faith;
4. Plan is not feasible; and
5. Debtor has failed to file all necessary prepetition income tax returns.

DISCUSSION

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

The debtor has not filed all required tax returns. 11 U.S.C. §§ 1308, 1325(a)(9). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The plan mathematically requires a payment of \$872 per month, which is greater than the proposed \$855 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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

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

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

The Objection to the Chapter 13 Plan filed by the

Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Final Ruling: No appearance at the March 18, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 59 days' notice was provided. Dkt. 155.

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, Sally Allen, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 154) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

8. [23-22374](#)-C-13 WILLIE WATSON
[PLC](#)-6 Peter Cianchetta

MOTION TO AVOID LIEN OF JESSICA
L. WILLIAMS AND EMMA L.
WILLIAMS
2-14-24 [[151](#)]

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 33 days' notice was provided. Dkt. 155.

The Motion to Avoid Judicial Lien is ~~xxxxxx~~.

This Motion requests an order avoiding the judicial lien of Jessica Williams and Emma LaVerne Williams ("Creditors") against property of the debtor commonly known as 8975 Beckington Dr., Elk Grove, California ("Property").

A judgment was entered against the debtor in favor of Creditors in the amount of \$727,829.83. Exhibit 3, Dkt. 154. An abstract of judgment was recorded with Sacramento County on October 24, 2019, that encumbers the Property. *Id.*

Pursuant to Debtor's Amended Schedule A, the subject real property has an approximate value of \$700,000.00 as of the petition date. Dkt. 141. The unavoidable liens that total \$403,942.00 as of the commencement of this case are stated on Debtor's Schedule D. Dkt. 13. Debtor has claimed an exemption in the amount of \$189,050.00 on Amended Schedule C. Dkt. 154.

OPPOSITION

Creditors filed an opposition (dkt. 179) on March 4, 2024. The basis of Creditors opposition is as follows:

(1) Creditors appraisal, which was conducted by a licensed appraiser as of February 2022, shows the value of the property at \$770,000.00; and

(2) Creditors have filed an Adversary Proceeding alleging that the debt owed to debtor is non-dischargeable because it arises from false pretense, a false representation or actual fraud.

DISCUSSION

At the hearing ~~xxxxxxxxxx~~

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 Willie James Watson, Sr. 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 Jessica L. Williams and Emma Laverne Williams, California Superior Court for Alameda County Case No. RG17869516, recorded on October 24, 2019, Document No. 201910241305, with the Sacramento County Recorder, against the real property commonly known as 8975 Beckington Dr., Elk Grove, California, is ~~XXXXXXXXXXXXXXXX~~