

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Bakersfield Federal Courthouse
510 19th Street, Second Floor
Bakersfield, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: APRIL 6, 2016
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [11-17103](#)-A-13 RANDALL BAKER MOTION TO DISMISS CASE
MHM-3 2-4-16 [[57](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

2. [11-17103](#)-A-13 RANDALL BAKER AMENDED MOTION TO SELL
RSW-1 3-24-16 [[68](#)]
RANDALL BAKER/MV
ROBERT WILLIAMS/Atty. for dbt.

Tentative Ruling

Motion: Sell Property [Real Property]

Notice: LBR 9014-1(f) (2); no written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

Property: 21321 Quail Springs Road, Tehachapi, California

Buyer: James and Leslie Robinson

Sale Price: \$281,000.00

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

SALE

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation.

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

COMPENSATION

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

Here, Coldwell Banker Best Realty request a commission of 6%. The court finds the compensation reasonable and approves a 6% commission, which may be split with buyer's agent, if any.

3. [15-14304](#)-A-13 JUAN/MARIA MARTINEZ MOTION TO DISMISS CASE
MHM-1 1-28-16 [[24](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

No tentative ruling.

4. [15-14306](#)-A-13 CATHLEEN GANDARA MOTION TO DISMISS CASE
MHM-1 1-28-16 [[22](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

5. [15-14710](#)-A-13 MOISES PALMA MOTION TO DISMISS CASE
MHM-2 2-9-16 [[33](#)]
MICHAEL MEYER/MV
STEVEN ALPERT/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Chapter 13 trustee Michael H. Meyer moves to dismiss debtor's case because the debtor is delinquent \$4,378.90 under the terms of the plan. Plan, filed December 11, 2015, ECF # 9. The debtor does not dispute the trustee's delinquency allegation but argues that the

motion should be denied because he has filed, served and set for confirmation a modified plan. In response, the trustee notes that the debtor is delinquent \$9,760.90 under the terms of the modified plan.

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$4,378.90.

NO CURE

Frequently, debtors oppose the Chapter 13 trustee's motion to dismiss by filing, serving a setting for hearing a modified plan that addresses the delinquency. By so doing, the debtor blunts the trustee's argument of unreasonable delay or failure to make payments. 11 U.S.C. § 1307(c)(1), (c)(4). But that is not the case here. The debtor did file, serve and set for hearing a modified plan. But since the debtor is delinquent \$9,760.90 under that plan the argument in opposition loses its persuasive force and is insufficient grounds to deny the motion.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

6. [15-14810](#)-A-13 ROBIN NEAL
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-12-16 [[16](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [15-15010](#)-A-13 PHILLIP BARROW AND MOTION TO DISMISS CASE
MHM-1 KATHLEEN NETZER 3-8-16 [[20](#)]
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.

No tentative ruling.

8. [16-10013](#)-A-13 GARY/MELISSA HAFELI MOTION TO DISMISS CASE
MHM-1 3-8-16 [[33](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

Final Ruling

This matter is continued to June 8, 2016, at 9:00 a.m. to coincide with the hearing on the debtors' motion to modify Chapter 13 plan.

9. [14-12915](#)-A-13 JEANETTE TENA CONTINUED MOTION TO DISMISS
MHM-2 CASE
MICHAEL MEYER/MV 11-23-15 [[67](#)]
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2,000.00.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to

appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$2,000.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

10. [12-19417](#)-A-13 PEDRO DURAN AND YOLANDA MOTION TO DISMISS CASE
MHM-3 LOPEZ 2-10-16 [[63](#)]
MICHAEL MEYER/MV
JANINE ESQUIVEL/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$3,194.86.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$3,194.86. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

11. [16-10019](#)-A-13 ISMAEL PALOMO
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
3-7-16 [[13](#)]

WILLIAM OLCOTT/Atty. for dbt.

No tentative ruling.

12. [11-16328](#)-A-13 CHARLES THOMEY AND
PK-2 TIFFANY RILEY-THOMEY

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF PATRICK KAVANAGH
FOR PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
3-9-16 [[109](#)]

PATRICK KAVANAGH/Atty. for dbt.

Tentative Ruling

Application: Allowance of Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Patrick Kavanagh has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2,547.26 and reimbursement of expenses in the amount of \$157.34. The applicant also asks that the court allow on a final basis all prior applications for fees and costs that the court has previously allowed on an interim basis.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Patrick Kavanagh's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2,547.26 and reimbursement of expenses in the amount of \$157.34. The aggregate allowed amount equals \$2,704.60. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$2,704.60 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held. The court also approves on a final basis all prior applications for interim fees and costs that the court has allowed under § 331 on an interim basis.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

13. [14-16029](#)-A-13 DAGMAR VAUGHAN
RSW-1
DAGMAR VAUGHAN/MV

PRETRIAL CONFERENCE RE:
OBJECTION TO CLAIM OF GREEN
TREE SERVICING LLC, CLAIM
NUMBER 13
9-11-15 [[32](#)]

ROBERT WILLIAMS/Atty. for dbt.

No tentative ruling.

14. [12-13230](#)-A-13 VICTOR/YOLANDA NUNEZ
RSW-1
VICTOR NUNEZ/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO MODIFY PLAN
2-19-16 [[23](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

15. [15-10130](#)-A-13 KAMMI SARGENT MOTION TO DISMISS CASE
MHM-1 2-4-16 [[32](#)]
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

16. [15-14333](#)-A-13 JOSE/YENNY ALBERT MOTION TO DISMISS CASE
MHM-1 2-19-16 [[21](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1),

(c) (4) and § 1326(a) (1) (A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$3,084.00.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

17. [15-14635](#)-A-13 CARLOS/SARA LAM
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

CONTINUED MOTION TO DISMISS
CASE
1-8-16 [[16](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

18. [15-14635](#)-A-13 CARLOS/SARA LAM
MHM-2

ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY TRUSTEE
MICHAEL H. MEYER
2-9-16 [[24](#)]

Final Ruling

The objection withdrawn and the plan confirmed, see Order, filed March 10, 2016, ECF # 62, the matter is dropped as moot.

19. [12-15838](#)-A-13 RICK/ANDREA JONES
PK-2

MOTION FOR COMPENSATION FOR
PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
3-16-16 [[44](#)]

PATRICK KAVANAGH/Atty. for dbt.

Tentative Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Patrick Kavanagh has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$4,705.00 and reimbursement of expenses in the amount of \$15.20.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Patrick Kavanagh's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$4,705.000 and reimbursement of expenses in the amount of \$15.20. The aggregate allowed amount equals \$4,720.20. Prior to the date of the petition, the applicant reduced that amount by the retainer of \$1,719.00. As of the date of the application, the applicant held a retainer in the

amount of \$0.00. The amount of \$3,001.20 shall be allowed as an administrative expense to be paid through the plan.

20. [15-14738](#)-A-13 JACQUELINE
MHM-1 O'BANNON-STRONG
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
3-7-16 [[32](#)]
RABIN POURNAZARIAN/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

21. [15-12639](#)-A-13 DAVID/MONICA GARZA
MHM-4 MOTION TO DISMISS CASE
MICHAEL MEYER/MV 2-22-16 [[93](#)]
PHILLIP GILLET/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

22. [16-10140](#)-A-13 MICHAEL LOPEZ
ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-25-16 [[25](#)]

Final Ruling

The case dismissed on the motion of the chapter trustee, DC No. MHM-1, ECF #30, the order to show cause is discharged.

23. [16-10140](#)-A-13 MICHAEL LOPEZ
MHM-1 MOTION TO DISMISS CASE
MICHAEL MEYER/MV 3-8-16 [[30](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been

filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$2,140.00.

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor failed to provide Credit Counseling Certificate. 11 U.S.C. § 109(h).

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

24. [16-10243](#)-A-13 ANGEL/LAURA SEGURA
PPR-1
BANK OF AMERICA, N.A./MV
WILLIAM OLCOTT/Atty. for dbt.
HALIE LEONARD/Atty. for mv.
RESPONSIVE PLEADING

OBJECTION TO CONFIRMATION OF
PLAN BY BANK OF AMERICA, N.A.
2-22-16 [\[18\]](#)

Final Ruling

The objection withdrawn, the matter is dropped as moot.

25. [13-10044](#)-A-7 ANTHONY CARRISOZA

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-29-16 [[73](#)]

PATRICK KAVANAGH/Atty. for dbt.
FEE PAID 2/29/16

Final Ruling

The fee paid, the order to show cause is discharged and the case shall remain pending.

26. [15-12046](#)-A-13 JEFFREY/ANGELINA
MHM-3 JORGENSEN
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-4-16 [[60](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

27. [16-10147](#)-A-13 ISABEL TORRES

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-26-16 [[22](#)]

Final Ruling

The case dismissed on the motion of the chapter trustee, DC No. MHM-1, ECF #30, the order to show cause is discharged.

28. [16-10147](#)-A-13 ISABEL TORRES
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
3-8-16 [[30](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$250.00.

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss this chapter 13 case has been presented to the court. Having entered the default of respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

29. [12-16549](#)-A-13 VANESSA WARD
RSW-4
VANESSA WARD/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION FOR HARDSHIP DISCHARGE
3-8-16 [[90](#)]

No tentative ruling.

30. [15-12850](#)-A-13 BRUCE/VICTORIA DAINS
SJS-2

MOTION FOR COMPENSATION FOR
SUSAN J. SALEHI, DEBTORS
ATTORNEY(S)
2-22-16 [[58](#)]

SUSAN SALEHI/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

31. [16-10253](#)-A-13 JOE PEREZ
KDG-1
MONICA TRIANO/MV
PATRICK KAVANAGH/Atty. for dbt.
JACOB EATON/Atty. for mv.

MOTION TO DISMISS CASE
3-16-16 [[38](#)]

No tentative ruling.

32. [16-10253](#)-A-13 JOE PEREZ
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

MOTION TO DISMISS CASE
3-8-16 [[32](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

33. [16-10253](#)-A-13 JOE PEREZ
PK-2
JOE PEREZ/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
2-24-16 [[25](#)]

No tentative ruling.

34. [16-10254](#)-A-13 FRED/KAREN FRANK
EAT-1
WELLS FARGO FINANCIAL
CALIFORNIA, INC./MV
ROBERT WILLIAMS/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO FINANCIAL
CALIFORNIA, INC.
3-9-16 [[18](#)]

No tentative ruling.

35. [16-10357](#)-A-13 APRIL BLANDBURG

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-15-16 [[17](#)]

PATRICK KAVANAGH/Atty. for dbt.
\$80.00 INSTALLMENT FEE PAID
3/21/16

Final Ruling

The fee paid, the order to show cause is discharged and the case shall remain pending.

36. [11-11059](#)-A-13 ADRIAN VASQUEZ AND MILLIE
PWG-4 GARCIA
ADRIAN VASQUEZ/MV

MOTION TO EXCUSE DEBTOR FROM
THE 11 U.S.C. 1328 CERTIFICATE
AND DEBTOR'S 1328 CERTIFICATE
OF CHAPTER 13 REGARDING 11
U.S.C. 522(Q) REQUIREMENT, DUE
TO DEATH OF THE DEBTOR
3-4-16 [[77](#)]

PHILLIP GILLET/Atty. for dbt.

Final Ruling

Motion: Waiver of Requirement to File § 1328 Certifications

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The motion requests a waiver of the requirement to complete and file § 1328 certifications, including certifications concerning domestic support obligations, prior bankruptcy discharges, exemptions exceeding the amount stated in § 522(q)(1) and pending criminal or civil proceedings described in § 522(q)(1)(A) and (B). These certifications are generally required for debtors by § 1328(a) and Local Bankruptcy Rule 5009-1(b) and (c).

The debtor named in the motion has died. Rule 1016 is applicable to this case. Rule 1016 provides that when a debtor dies, "[i]f a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred."

The court finds that further administration is possible and in the best interests of the debtor and creditors in this case as no creditor or party in interest has presented grounds for dismissing the case or

denying the waiver requested. Fed. R. Bankr. P. 1016. Pursuant to § 105(a), Federal Rules of Bankruptcy Procedure 1001 and 1016, and Local Bankruptcy Rules 1001-1(f) and 1016-1(b), the court will grant the motion and waive the requirement that the deceased debtor file certifications concerning compliance with § 1328, including Forms EDC 3-190 and EDC 3-191 required under LBR 5009-1.

The operative provisions of the order shall state only the following: "It is ordered that the motion is granted as to the deceased debtor. The court waives the requirement that [deceased debtor's name] complete and file certifications concerning compliance with § 1328. And the court finds the continued administration of the estate is possible and in the best interests of the parties."

37. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND MOTION TO VALUE COLLATERAL OF
PK-1 NICOLE GARCIA MOR FURNITURE FOR LESS, INC.
JUAN GARCIA - LOPEZ/MV (MOR FURNITURE)
3-3-16 [[19](#)]

PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

38. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND MOTION TO VALUE COLLATERAL OF
PK-2 NICOLE GARCIA SEARS CREDIT CARD (CITIBANK,
JUAN GARCIA - LOPEZ/MV N.A.)
3-16-16 [[26](#)]

PATRICK KAVANAGH/Atty. for dbt.

Final Ruling

The motion is continued to May 4, 2016, at 9:00 a.m. Not later than April 20, 2016, the debtor shall file a supplemental declaration specifying (1) the date the refrigerator was purchased, 11 U.S.C. §1325(a) (hanging paragraph); (2) whether other collateral for the debt exists; and (3) if so, the dates that collateral was purchased.

39. [16-10162](#)-A-13 JUAN GARCIA - LOPEZ AND MOTION TO VALUE COLLATERAL OF
PK-3 NICOLE GARCIA MOR FURNITURE/TD RETAIL
JUAN GARCIA - LOPEZ/MV SERVICES
3-16-16 [[33](#)]

PATRICK KAVANAGH/Atty. for dbt.

Final Ruling

The motion is continued to May 4, 2016, at 9:00 a.m. Not later than April 20, 2016, the debtor shall file a supplemental declaration specifying (1) the date the refrigerator was purchased, 11 U.S.C. §1325(a) (hanging paragraph); (2) whether other collateral for the debt exists; and (3) if so, the dates that collateral was purchased.

40. [11-17264](#)-A-13 MICHAEL/CHERYL PAULEY MOTION FOR HARDSHIP DISCHARGE
DMG-2 2-19-16 [[59](#)]
MICHAEL PAULEY/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

41. [11-17264](#)-A-13 MICHAEL/CHERYL PAULEY MOTION TO MODIFY PLAN
DMG-3 2-19-16 [[62](#)]
MICHAEL PAULEY/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

42. [11-17264](#)-A-13 MICHAEL/CHERYL PAULEY MOTION TO DISMISS CASE
MHM-2 2-4-16 [[52](#)]
MICHAEL MEYER/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

43. [15-14068](#)-A-13 DARIEA GARIBALDI
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
2-4-16 [[24](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$400.00.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$400.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

44. [15-10169](#)-A-13 JAMES/LINDA COWAN
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
2-4-16 [[40](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

45. [12-18773](#)-A-13 STEPHEN/FRANCES MENDEZ
PK-6

MOTION FOR COMPENSATION FOR
PATRICK KAVANAGH, DEBTORS
ATTORNEY(S)
2-29-16 [[91](#)]

PATRICK KAVANAGH/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Patrick Kavanagh has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$5,315.50 and reimbursement of expenses in the amount of \$391.52.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Patrick Kavanagh's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$5,315.50 and reimbursement of expenses in the amount of \$391.52. The aggregate

allowed amount equals \$5,707.02. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$5,707.02 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid from the retainer held by the applicant. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

46. [15-10373](#)-A-13 GREGORIO/CYNTHIA SALAZAR MOTION TO DISMISS CASE
MHM-1 2-4-16 [[54](#)]
MICHAEL MEYER/MV
SUSAN SALEHI/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

47. [16-10073](#)-A-13 DONALD WILLIFORD MOTION FOR RELIEF FROM
DMG-1 AUTOMATIC STAY
TAMMY MARTINEZ/MV 3-2-16 [[15](#)]
ROBERT WILLIAMS/Atty. for dbt.
D. GARDNER/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

48. [16-10073](#)-A-13 DONALD WILLIFORD MOTION TO DISMISS CASE
MHM-1 3-8-16 [[27](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

49. [15-13174](#)-A-13 MARSHA WALKER
RSW-1
MARSHA WALKER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO MODIFY PLAN
2-16-16 [[27](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

50. [14-14878](#)-A-13 BRIAN/DIANA POOLE
MHM-3
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
1-6-16 [[57](#)]

No tentative ruling.

51. [13-16685](#)-A-13 ROBERT/ORENE BARKER MOTION TO SELL
PK-2 3-16-16 [[68](#)]
ROBERT BARKER/MV
PATRICK KAVANAGH/Atty. for dbt.

Final Ruling

The motion is denied as duplicative of #52 below.

52. [13-16685](#)-A-13 ROBERT/ORENE BARKER MOTION TO SELL
PK-2 3-16-16 [[61](#)]
ROBERT BARKER/MV
PATRICK KAVANAGH/Atty. for dbt.

Tentative Ruling

Motion: Sell Property [Real Property]

Notice: LBR 9014-1(f) (2); no written opposition required

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

Property: 2008 Toyota 4-Runner

Buyer: Carmax

Sale Price: \$14,000.00

Sale Type: Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation.

Section 363(b) (1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b) (1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the

Chapter 13 trustee to approve the escrow instructions, if any, for the sale.

53. [15-14786](#)-A-13 MARY SMITH
DMG-4 MOTION TO CONFIRM PLAN
MARY SMITH/MV 2-17-16 [[37](#)]
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

A second modified plan file, served and set for hearing, the matter is dropped as moot.

54. [15-14786](#)-A-13 MARY SMITH
DMG-5 MOTION TO VALUE COLLATERAL OF
MARY SMITH/MV WELLS FARGO DEALER SERVICES
D. GARDNER/Atty. for dbt. 2-24-16 [[42](#)]
RESPONSIVE PLEADING

No tentative ruling.

55. [15-14786](#)-A-13 MARY SMITH
MHM-1 MOTION TO DISMISS CASE
MICHAEL MEYER/MV 2-12-16 [[31](#)]
D. GARDNER/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

56. [15-14786](#)-A-13 MARY SMITH
MHM-2 MOTION TO DISMISS CASE
MICHAEL MEYER/MV 3-9-16 [[60](#)]
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

57. [11-63487](#)-A-13 KENNETH/BARBARA HARRIS
MHM-3
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO DISMISS CASE
2-4-16 [[123](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$2,400.00.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$2,400.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

58. [16-10187](#)-A-13 REBECCA ROUSEY
MHM-1
MICHAEL MEYER/MV
JULIE MORADI-LOPES/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.

MOTION TO DISMISS CASE
3-8-16 [[34](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

The debtor has failed to appear at a § 341 meeting of creditors. See 11 U.S.C. §§ 341, 343.

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

59. [15-13491](#)-A-13 FRED/PAMELA PITTS
RSW-1
FRED PITTS/MV
ROBERT WILLIAMS/Atty. for dbt.
OPPOSITION WITHDRAWN

MOTION TO CONFIRM PLAN
2-24-16 [[32](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

60. [15-14691](#)-A-13 MATTHEW LATRAY
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE
2-9-16 [[26](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

61. [16-10139](#)-A-13 DAVID HYATT
LRL-44
DAVID HYATT/MV
LESLIE RICHARDS/Atty. for dbt.
DEBTOR DISMISSED:
02/19/2016

MOTION TO VACATE DISMISSAL OF
CASE
3-24-16 [[59](#)]

No tentative ruling.