

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: April 8, 2025

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

April 8, 2025 at 1:00 p.m.

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1. [25-90039](#)-B-13 MICHAEL INDERBITZIN CONTINUED MOTION TO CONFIRM
[THN](#)-1 Teresa Thu Huong Hung-Nguyen PLAN
1-27-25 [[9](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed by the Chapter 13 Trustee and Andrew R. Fine, an Unmarried Man, as to 75.71% interest, and Pradip B. Shah and Hardlka P. Shah, Trustees of The Pradip and Hardika Shah Family Trust Dated 12/16/1994, as to 24.29% interest, as tenants in common.

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

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

First, Debtor's plan provides for Val Chris Investments as a Class 1 claim with pre-petition arrears of \$12,000.00 to be paid at zero percent interest, a monthly dividend of \$200.00 and a post-petition mortgage payment of \$586.00. Class 1 includes all delinquent claims that mature after the completion of the plan, including those secured by Debtor's principal residence. On March 31, 2025, creditor Val-Chris Investments filed a secured claim indicating that the loan will mature on June 1, 2026, month 17 of Debtor's 60-month plan. Claim 8-1. Since the loan will mature within the Debtor's plan term, it appears the creditor has been misclassified.

Second, Debtor's plan provides for Stanislaus County Tax Collector as a Class 1 claim with pre-petition arrears of \$3,600.00 to be paid at zero percent interest a monthly dividend of \$68.00, while the non-standard provisions of the plan state that Debtor will make the ongoing \$300.00 property tax payment directly to the Stanislaus County Tax Collector. This provision is contrary to Section 3.07(b) of the plan which provides that the Trustee shall maintain all post-petition monthly payments to the holder of each Class 1 claim. Stanislaus County has not yet filed a proof of claim in Debtor's case, but Trustee believes the correct classification of the past due property taxes should be a Class 2 claim, a claim that will mature before the plan is completed.

Third, Debtor must provide copies of all business and personal state and federal income tax returns to the Chapter 13 Trustee on or before April 30 of each year for the duration of the plan and modify the plan if appropriate.

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

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

April 8, 2025 at 1:00 p.m.

The court will issue an order.

2. [24-90460](#)-B-13 CARLOS SANDOVAL
[KMM](#)-1 David C. Johnston

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-5-25 [[47](#)]

VW CREDIT, INC. VS.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion for relief from automatic stay.

VW Credit, Inc. ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2022 Volkswagen GTI (the "Vehicle"). The moving party has provided the Declaration of Jasmine Turner to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Turner Declaration states that there are six post-petition monthly payments of \$726.35 in default from August 28, 2024, through January 28, 2025, which totals \$4,358.10.

From the evidence provided to the court, and only for purposes of this motion, the debt secured by this asset is determined to be \$27,876.58 while the value of the Vehicle is determined to be \$27,200.00 as stated in the Turner Declaration.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtor and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtor or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, 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.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

3. [25-90050](#)-B-13 TRAVIS/CONSTANCE WOOTEN CONTINUED OBJECTION TO
[LGT](#)-1 Carl R. Gustafson CONFIRMATION OF PLAN BY LILIAN
G. TSANG
3-7-25 [[15](#)]

Final Ruling

This matter was continued from April 1, 2025, to allow any party in interest to file a response by 5:00 p.m. Friday, April 4, 2025. Nothing was filed. Therefore, the court's conditional ruling at dkt. 42, sustaining the objection, shall become the court's final decision. The continued hearing on April 8, 2025, at 1:00 p.m. is vacated.

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

The court will issue an order.