

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Michael S. McManus

Bankruptcy Judge

Sacramento, California

**April 13, 2015 at 2:00 p.m.**

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1. 13-30047-A-13 RALPH/MARY LANGLOIS MOTION TO  
JPJ-4 DISMISS CASE  
3-26-15 [69]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$180 as required by the confirmed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. Further, the court notes that the debtor has twice modified the plan in order to cure delinquencies. The debtor immediately defaulted on the modified plans as soon as they were confirmed. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

2. 11-49257-A-13 ROGER LUCAS MOTION TO  
JPJ-1 DISMISS CASE  
3-9-15 [23]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The trustee's Notice of Filed Claims was filed and served on October 24, 2012 as required by Local Bankruptcy Rule 3007-1(d) and former General Order 05-03. That notice advised the debtor of all claims filed by creditors. Given the claims filed and their amounts, it will take 236 months to pay the dividends promised by the confirmed plan. The confirmed plan specifies that it must be completed within 36 months as required by 11 U.S.C. § 1322(d).

The debtor failed to reconcile the plan with the claims, either by filing and serving a motion to modify the plan to provide for all claims within the maximum duration permitted by section 1322(d), or by objecting to claims. This is required by Local Bankruptcy Rule 3007-1(d)(5) which provides: "If the Notice of Filed Claims includes allowed claims that are not provided for in the chapter 13 plan, or that will prevent the chapter 13 plan from being completed timely, the debtor shall file a motion to modify the chapter 13 plan, along with any valuation and lien avoidance motions not previously filed, in order to reconcile the chapter 13 plan and the filed claims with the requirements of the Bankruptcy Code. These motions shall be filed and served no later than ninety (90) days after service by the trustee of the Notice of Filed Claims and set for hearing by the debtor on the earliest available court date." See also former General Order 05-03, ¶ 6; In re Kincaid, 316 B.R. 735 (Bankr. E.D. Cal.

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2004).

The time to modify the plan under Local Bankruptcy Rule 3007-1(d)(5) and under former General Order 05-03, ¶ 6, has expired. This material breach of the plan is cause for dismissal. See 11 U.S.C. § 1307(c)(6).