



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 30, 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.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medical credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

Eastern District of California

April 30, 2024 at 1:30 p.m.

- Tentative Ruling:**

The Objection to Confirmation of Plan is overruled as moot.

Therefore, the Objection is overruled.

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 Federal Home Loan Mortgage Corporation, 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 overruled as moot.

2. [23-24524](#)-C-13 RUNXIU WANG
[GJP](#)-2 Anh Nguyen

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
3-25-24 [[31](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 34.

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 Objection to Claimed Exemptions is sustained.

Creditor 626 Jackson Street LLC (Creditor) filed this Objection objecting to the debtor's claimed exemptions pursuant to Cal. Code Civ. Proc. § 704.070 because the debtor appears to have exempted more than the maximum amount allowed, or more than the debtor's earnings during the 30-day period prior to the filing of the debtor's petition.

Additionally, Creditor objects to the debtor's claimed exemption pursuant to Cal. Code Civ. Proc. § 704.220 because the debtor has claimed funds in a business account for debtor's 100% owned corporation.

DISCUSSION

Section 703.580 of the California Code of Civil Procedure allocates the burden of proof in state-law exemption proceedings. Cal. Civ. Proc. Code § 703.580(b). The bankruptcy appellate panel in this circuit has concluded that "where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation." *In re Diaz*, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016). In this exemption proceeding in bankruptcy, therefore, the debtor bears the burden of proof.

The debtor by not having responded to the motion or provided any evidence supporting the claims of exemption has not met the debtor's burden. 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 Claimed Exemptions filed by 626 Jackson Street LLC having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection is sustained.

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. 44.

The Motion to Modify Plan is denied.

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 43) filed on March 13, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 46) on April 16, 2024, opposing confirmation on the following grounds:

1. The debtor is delinquent in plan payments in the amount of \$1,886.00; and
2. The plan is not feasible.

DISCUSSION

The debtor is \$1,886.00 delinquent in plan payments. Declaration, Dkt. 47. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

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 there are prepetition arrearages, the debtor has not carried her burden to show the plan is adequately funded. That is reason to deny confirmation. 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, 1325(a), and 1329. 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 Modify Plan filed by the debtor, Laurie Ledesma, 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.

4. [23-22637](#)-C-13 WILLIAM/BELINDA
[PSB](#)-1 CUNNINGHAM
Pauldeep Bains

OBJECTION TO CLAIM OF PINNACLE
CREDIT SERVICES, LLC, CLAIM
NUMBER 17
2-28-24 [[23](#)]

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 45 days' notice was provided. Dkt. 30.

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 Objection to Proof of Claim is sustained.
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The Debtors, William Cunningham, Jr. and Belinda Cunningham, filed this Objection arguing that Proof of Claim, No. 17, filed by Pinnacle Credit Services, LLC should be disallowed.

Debtors assert that the account on this claim was charged off by the original provider on December 14, 1998 and the four year statute of limitations on this obligation under California law has run and there were no tolling periods. Therefore, the debtors assert their affirmative defense against the collection of this debt.

DISCUSSION

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. See 11 U.S.C. § 502(a). Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. See 11 U.S.C. § 502(b). The party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

The court finds that the Debtor has satisfied its burden of overcoming the presumptive validity of the claim. Based on the evidence before the court, the Creditor's claim is disallowed in its entirety. The objection to the proof of claim 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 Claim filed in this case by the debtors, William Cunningham, Jr. and Belinda Cunningham, 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 17 of Pinnacle Credit Services, LLC is sustained and disallowed in its entirety.

Final Ruling: No appearance at the April 30, 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 44 days' notice was provided. Dkt. 28.

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 debtors 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 debtors, John and Andrea McNeil, 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. 27) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtors 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.

6. [23-24645](#)-C-13 STEVEN/TAMMY CARROLL
[WLG](#)-1 Nicholas Wajda

MOTION TO CONFIRM PLAN
3-25-24 [[42](#)]

Final Ruling: No appearance at the April 30, 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 36 days' notice was provided. Dkt. 51.

The Motion to Confirm is denied as moot.

On April 26, 2024, the debtors filed a notice of withdrawal of motion and a new proposed plan. Filing a new plan is a de facto withdrawal of the pending plan. Therefore, the Motion to Confirm the Amended Plan is denied as moot, 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 debtors, Steven and Tammy Carroll, 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, and the proposed Chapter 13 Plan is not confirmed.

7. [18-22662](#)-C-13 RAJINDAR SINGH
[PGM](#)-6 Peter Macaluso

OBJECTION TO CLAIM OF LOANME,
INC., CLAIM NUMBER 4-1
3-14-24 [[190](#)]

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 47 days' notice was provided. Dkt. 195.

The Objection to Proof of Claim is XXXXXXXXXX

The Debtor, Rajindar Singh, filed this Objection arguing that Proof of Claim, No. 4, filed by LoanMe, Inc. should be disallowed.

Debtor asserts that the amount and classification of the claim are incorrect and unsubstantiated. Further, debtor represents that payments to the creditor are being returned because the creditor is no longer doing business.

DISCUSSION

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. See 11 U.S.C. § 502(a). Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. See 11 U.S.C. § 502(b). The party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm* (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie* (In re Wylie), 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

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 Objection to Claim filed in this case by the debtors, Rajindar 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 Objection to Proof of Claim Number 4 of LoanMe, Inc. is XXXXXXXXXX

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 20 days' notice was provided. Dkt. 18.

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 341 meeting held on April 4, 2024;
2. Debtor has failed to provide proof of income;
3. Debtor has failed to provide federal income tax returns;
4. Debtor has failed to file a credit counseling certificate;
5. Plan fails the liquidation test; and
6. Plan is not feasible

DISCUSSION

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. A review of the docket also shows the debtor failed to appear at the continued Meeting of Creditors on April 18, 2024. 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 represents 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).

The debtor has non-exempt assets totaling \$47,813.91. The plan provides for a zero percent dividend to unsecured claims, which is less than the 100 percent dividend necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

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 April 30, 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 43 days' notice was provided. Dkt. 54.

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, Cheri Terhorst, 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. 51) 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.

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 40 days' notice was provided. Dkt. 200.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 198) filed on March 21, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 206) on April 16, 2024, opposing confirmation on the following grounds:

1. The debtor is delinquent in plan payments;
2. The plan is not feasible; and
3. The plan fails the liquidations test.

DISCUSSION

The debtor is \$2,338.88 delinquent in plan payments. Declaration, Dkt. 207. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

The debtor has not demonstrated the plan is feasible because the claims filed in the case are greater than scheduled. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

The debtor has non-exempt assets totaling \$144,338.36. The plan provides for a 100 percent dividend to unsecured claims, but does not provided for interest at the federal judgment rate of 5.36 percent, which is necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

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, Willie 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 Motion is denied, and the plan is not confirmed.

11. [24-20575](#)-C-13 BERTHA SPENCER-JOHNSON OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Eric Seyvertsen PLAN BY LILIAN G. TSANG
4-12-24 [[14](#)]

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 19 days' notice was provided. Dkt. 17.

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 has failed to provide copies of her 2023 income tax returns;
2. Debtor has failed to provide complete copies of her pay advices for the six months preceding the filing of the case;
3. The plan does not provide for all of debtor's projected disposable income; and
4. Debtor has failed to amend her Schedule I.

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 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 plan proposes a monthly payment of \$400.00, which is less than 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.

12. [24-20678](#)-C-13 LAWRENCE FUNG
[EJS](#)-1 Eric Schwab

MOTION TO SELL O.S.T.
4-11-24 [[17](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(3) notice which requires an order shortening time. The order shortening time was entered on April 13, 2024, shortening time for service to April 11, 2024. The Proof of Service shows that service was provided on April 11, 2024. Dkt. 24.

The Motion to Sell is xxxxxx.

The debtor filed this Motion pursuant to 11 U.S.C. §§ 363 and 1303 seeking to sell property commonly known as 5350 Dunlay Drive, #1217, Sacramento, CA ("Property").

The proposed purchaser of the Property is Shawanna Kennedy, and the proposed purchase price is \$389,000.00.

The Chapter 13 Trustee filed an opposition (dkt. 27) contending that the debtor has not provided any evidence that the sale of the property is an arm's length transaction.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: xxxxxxxxxxxxxxxxxx.

At the hearing xxxxxxxxxx

Broker's Commission

Movant has estimated that a five percent broker's commission from the sale of the Property will equal approximately \$19,450.00. As part of the sale in the best interest of the Estate, the court permits Movant to pay the broker an amount not more than five percent commission.

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 Sell Property filed by debtor, Lawrence Fung ("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 Motion is xxxxxxxxxx

13. [23-24580](#)-C-13 LATRECE BUNDY
[TLA](#)-1 Thomas Amberg

MOTION FOR COMPENSATION FOR
THOMAS L. AMBERG, JR., DEBTORS
ATTORNEY(S)
3-18-24 [[22](#)]

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 43 days' notice was provided. Dkt. 27.

The Motion for Allowance of Professional Fees is granted.

Thomas L. Amberg, Jr. filed this first interim request seeking approval of compensation for attorney services provided to debtor, Latrece Bundy.

Fees are requested for the period December 18, 2023, through March 18, 2024. The movant requests fees in the amount of \$3,055.00.

DISCUSSION

Hourly Fees

The court finds that the hourly rates are reasonable and that the movant effectively used appropriate rates for the services provided. First interim fees in the amount of \$3,055.00 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

The court authorizes the Chapter 13 trustee to pay 100% of the fees allowed by the court.

The movant is allowed, and the Chapter 13 trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$3,055.00
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pursuant to this Motion as interim fees pursuant to 11 U.S.C. § 331 in this case.

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 Thomas L. Amberg, Jr. ("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 Movant is allowed the following fees and expenses as a professional of the Estate:

Movant, Professional employed by debtor, Latrece Bundy,

Fees in the amount of \$3,055.00

as an interim allowance of fees and expenses pursuant to 11 U.S.C. § 331 and subject to final review and allowance pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay 100% of the fees allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

14. [22-20492](#)-C-13 GENEROSA DIZON
[LGT](#)-1 Lewis Phon

CONTINUED MOTION TO PAY
4-2-24 [[290](#)]

DEBTOR DISMISSED: 03/14/24

Thru #16

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 14 days' notice was provided. Dkt. 294.

The Motion Directing Payment is xxxxxxxxxx.

The Chapter 13 Trustee, Lilian Tsang, ("Trustee") moves for an order directing payment of the balance of funds being held by the Trustee in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case.

Creditor, Jennine C. Banayat, opposes the Trustee's motion to the extent it seeks to return the funds to the debtor. Creditor asserts that 11 U.S.C. § 349(b) reverts the property in the debtor upon dismissal of the case. Further, 11 U.S.C. § 362(c) lifts the automatic stay at the time the case is dismissed and at that point the levy under California Code of Civil Procedure § 699.510 becomes applicable and requires the Trustee to pay the County Sheriff.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

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 Directing Payment 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 Motion is xxxxxxxxxx

15. [22-20492](#)-C-13 GENEROSA DIZON
[LP-8](#) Lewis Phon

MOTION TO CONFIRM PLAN
3-19-24 [[285](#)]

Final Ruling: No appearance at the April 30, 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 42 days' notice was provided. Dkt. 287.

The Motion to Confirm is denied as moot.

A review of the docket shows the case was dismissed on March 14, 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, Generosa Dizon, 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.

16. [22-20492](#)-C-13 GENEROSA DIZON
[MJH](#)-3 Lewis Phon

CONTINUED MOTION TO DIRECT
PAYMENT OF DEBTOR FUNDS HELD BY
CHAPTER 13 STANDING TRUSTEE TO
STANISLAUS COUNTY SHERIFF
CIVIL, LEVYING OFFICER FILE NO.
2024001122, TO THE BENEFIT OF
JENNINE C. BANAYAT, CREDITOR
4-2-24 [[295](#)]

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 only 13 days' notice was provided. Dkt. 299.

The Motion Directing Payment is ~~xxxxxxxxxx~~.

Creditor, Jennine C Banayat, ("Creditor") moves for an order requiring Chapter 13 Trustee to deliver the balance of undistributed funds in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case to Stanislaus County Sheriff Civil, Levying Officer File No. 2024001122, to the benefit of Jennine C. Banayat, Creditor.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

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 Directing Payment by Creditor, Jennine C. Banayat, 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~~

17. [23-22893](#)-C-13 CHERYL RYCE MOTION TO SELL O.S.T.
[WLG](#)-4 Nicholas Wajda 4-15-24 [[86](#)]

Final Ruling: No appearance at the April 30, 2024 hearing is required.

The movant having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion was dismissed without a court order, and the matter is removed from the calendar.**