

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: May 11, 2021

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
Sacramento, California

May 11, 2021 at 1:00 p.m.

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| 1. | <u>21-20730</u> -B-13 JUAN MUNANTE
<u>RDG</u> -1 Pro Se | OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-15-21 [<u>48</u>] |
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Final Ruling

The case was dismissed on April 28, 2021. Therefore, the objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

2. [20-25153](#)-B-13 MICHAEL/JOLENE YATES
[CLH](#)-2 Charles L. Hastings
WITHDRAWN BY M.P.

MOTION TO CONFIRM PLAN
4-1-21 [[62](#)]

Final Ruling

The Debtors having filed a notice of withdrawal for the pending motion, the withdrawal being consistent with any opposition filed to the motion, the court interpreting the notice of withdrawal to be an ex parte motion pursuant to Fed. R. Civ. P. 41(a)(2) and Fed. R. Bankr. P. 9014 and 7014 for the court to dismiss without prejudice the motion, and good cause appearing, the motion is dismissed without prejudice.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

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.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to confirm the third amended plan.

Feasibility depends on the granting of three motions to value collateral of Citibank, N.A., Capital One, and Department Stores National Bank. Those motions were granted on May 4, 2021. Therefore, the plan is feasible pursuant to 11 U.S.C. § 1325(a)(6).

The amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

4. [19-21461](#)-B-13 OLIVIA MERCADO
[RWF](#)-3 Robert W. Fong

MOTION TO MODIFY PLAN
3-30-21 [[60](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

5. [21-20762](#)-B-13 CHRISTOPHER ANTELLAS
[RDG](#)-1 Michael K. Moore

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-15-21 [[21](#)]

CONTINUED TO 5/18/2021 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 5/12/2021.

Final Ruling

No appearance at the May 11, 2021, hearing is necessary.

The court will issue an order.

6. [20-24477](#)-B-13 SUSANA SANTANA
[BLF](#)-6 T. Mark O'Toole
Thru #8

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF BAKKEN LAW FIRM
FOR LORIS L. BAKKEN, TRUSTEES
ATTORNEY(S)
4-7-21 [[81](#)]

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 compensation.

Fees and Costs Requested

Loris L. Bakken of the Bakken Law Firm ("Movant"), the counsel of record for Chapter 7 Trustee Gary R. Farrar ("Trustee"), makes a first and final request for the allowance of \$5,250.00 in fees and \$202.97 in expenses. The period for which the fees are requested is for November 9, 2020, through and including May 11, 2021.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) legal advice and rendering legal services to the Trustee, (2) general case administration, (3) investigation of the sale of real property, and (3) reviewing and responding to Debtor Susana Santana's motion to convert to chapter 13. Dkt. 85. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$5,250.00
Costs and Expenses	\$ 202.97

The motion is ORDERED GRANTED for fees of \$5,250.00 and costs and expenses of \$202.97.

The court will issue an order.

7. [20-24477](#)-B-13 SUSANA SANTANA
[BLF](#)-7 T. Mark O'Toole

MOTION FOR COMPENSATION FOR
GARY R. FARRAR, CHAPTER 7
TRUSTEE(S)
4-7-21 [[87](#)]

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 compensation.

Fees and Costs Requested

Chapter 7 Trustee Gary R. Farrar ("Movant") makes a first and final request for the allowance of \$1,320.00 for administrative services. The period for which the fees are requested is for September 25, 2020, through February 23, 2021.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) general chapter 7 case administration, (2) investigation into the value and marketability of Debtor Susana Santana's real property, and (3) efforts to employ attorney Loris L. Bakken and real estate broker Bob Brazeal. Dkts. 87, 90. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$1,320.00
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The motion is ORDERED GRANTED for fees of \$1,320.00.

The court will issue an order.

8.	20-24477 -B-13	SUSANA SANTANA	MOTION FOR COMPENSATION FOR
	BLF -8	T. Mark O'Toole	REMAX EXECUTIVE, REALTOR(S)
			4-7-21 [73]

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 compensation.

Fees and Costs Requested

Bob Brazeal of Remax Executive ("Movant") makes a first and final request for the allowance of \$275.00 for administrative services. The period for which the fees are requested is for September 27, 2020, through November 9, 2020.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) reviewing the history of ownership of property located at 5716 Tallahatchey Drive, Stockton, California, (2)

evaluating the condition of the property, (3) providing an opinion as to value of the property, and (4) acting as agent in connection with the marketing and sale of the property. Dkts. 73, 77. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$275.00
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The motion is ORDERED GRANTED for fees of \$275.00.

The court will issue an order.

9. [19-27179](#)-B-13 WILLIAM ALBERT
[RWF](#)-1 Robert W. Fong

MOTION TO MODIFY PLAN
3-31-21 [[18](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

10. [21-20383](#)-B-13 JOHN SERNA
[LRR](#)-1 Len ReidReynoso

MOTION TO CONFIRM PLAN
3-23-21 [[24](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). 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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

11. [19-25785](#)-B-13 ELVIS RUBIO AND VERONICA MOTION TO APPROVE LOAN
[JLL](#)-2 TORRES-RUBIO MODIFICATION
Jennifer G. Lee 4-2-21 [[31](#)]

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 permit the loan modification.

Debtors seek court approval to incur post-petition credit. Carrington Mortgage Services, LLC ("Creditor"), whose claim the plan provides for in Class 4, has agreed to a loan modification that consists of taking payments from Debtors' forbearance and recording a deed of trust at 0% interest that only needs to be paid upon sale or refinance of Debtors' property. The modification will not increase Debtors' regular mortgage payments.

The motion is supported by the Declaration of Elvis Rubio. The Declaration affirms Debtors' desire to obtain the post-petition financing and provides evidence of Debtors' ability to pay this claim on the modified terms since it does not increase Debtors' regular mortgage payments.

This post-petition financing is consistent with the Chapter 13 plan in this case and Debtors' ability to fund that plan. There being no objection from the Trustee or other parties in interest, and the motion complying with the provisions of 11 U.S.C. § 364(d), the motion is granted.

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

The court will issue an order.

12. [20-22697](#)-B-13 KIA BROOKS
[SMJ](#)-1 Scott M. Johnson

MOTION TO MODIFY PLAN
4-6-21 [[21](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.