



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

May 30, 2023 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**.

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UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

May 30, 2023 at 1:30 p.m.

-
1. [23-20715](#)-C-13 JULIAN REYNAGA MOTION FOR ORDER SETTING
[GC-1](#) Julius Cherry SECURED CLAIM OF SANTANDER
CONSUMER USA, INC.
3-27-23 [[13](#)]

Final Ruling: No appearance at the May 30, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 64 days' notice was provided. Dkt. 17.

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 Value is granted.

The debtor filed this Motion seeking to value the portion of Santander Consumer USA, Inc's ("Creditor") claim secured by the debtor's property commonly known as 2021 Ford Edge (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$27,346.00. Declaration, Dckt. 15.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on March, 2018, which is less than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph). However, debtor is seeking the value of a service contract and debt cancellation agreement obtained at the time the car was purchased to be excluded from the secured claim of Creditor. See In re Jones, 583 B.R. 749, 755 (Bankr. W.D. Wash. 2018). Debtor is also seeking for the negative equity of his trade-in vehicle to be excluded from the secured claim of creditor. See AmeriCredit Fin. Servs. v. Penrod, 611 F.3d 1158, 1162-63 (9th Cir. 2010).

May 30, 2023 at 1:30 p.m.

Upon review of the record, the court finds the value of the negative equity, service contract and debt cancellation agreement is not included in the purchase money security interests. Therefore, Creditor's secured claim is determined to be \$27,346.00. 11 U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the debtor 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Santander Consumer USA, Inc. ("Creditor") secured by property commonly known 2021 Ford Edge (the "Property") is determined to be a secured claim in the amount of \$27,346.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

2. [23-20715](#)-C-13 JULIAN REYNAGA
[RDG-1](#) Julius Cherry

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-26-23 [[18](#)]

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 35 days' notice was provided. Dkt. 21.

The Objection to Confirmation of Plan is overruled.

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that the plan relies on a pending motion to value secured claim.

DISCUSSION

The debtor's motion to value secured claim (Item #1 above) is granted, therefore, the Trustee's opposition is moot.

No other grounds for objection remaining, it appears the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Objection is overruled, 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 Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Russell Greer, 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, and the debtor's Chapter 13 Plan (Dkt. 3), 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 Chapter 13 Trustee will submit the proposed order to the court.

3. [23-20916](#)-C-13 TING CHENG AND MIAN KANG OBJECTION TO CONFIRMATION OF
[CAS-1](#) Arasto Farsad PLAN BY CAPITAL ONE AUTO
FINANCE
4-26-23 [[16](#)]

Final Ruling: No appearance at the May 30, 2023 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 19.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Objection to Confirmation of Plan is overruled as moot.

Creditor, Capital One Auto Finance, filed this Objection to Confirmation on April 26, 2023. Thereafter, the debtor filed an amended plan and corresponding Motion to Confirm, making this Objection moot. Dkts. 26, 29.

Therefore, the Objection is overruled.

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 Creditor, Capital One Auto Finance, 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.

4. [23-20916](#)-C-13 TING CHENG AND MIAN KANG OBJECTION TO CONFIRMATION OF
[RDG-1](#) Arasto Farsad PLAN BY RUSSELL D. GREER
5-9-23 [[21](#)]

Final Ruling: No appearance at the May 30, 2023 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 24.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Objection to Confirmation of Plan is overruled as moot.

The Chapter 13 trustee filed this Objection to Confirmation on May 9, 2023. Thereafter, the debtor filed an amended plan and corresponding Motion to Confirm, making this Objection moot. Dkt. 26, 29.

Therefore, the Objection is overruled.

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, Russell Greer, 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.

5. [23-20834](#)-C-13 GENE/JENNIFER FELICE
[RDG-1](#) Thomas Amberg

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-11-23 [[16](#)]

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. 19.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtors have failed to amend Form 122C-1 to include all income derived during the 6 months prior to filing;
2. Debtors have failed to file amended Schedules that show income tax refunds; and
3. Debtors include deductions for voluntary contributions towards retirement plans and employee stock purchases.

DISCUSSION

The debtor may have non-exempt assets related to income tax refunds. The plan provides for a 8 percent dividend to unsecured claims, which may be less than the dividend necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

The plan proposes a monthly payment of \$400, which may be 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, Russell Greer, 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.

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 54 days' notice was provided. Dkt. 61.

The Motion to Modify Plan is denied.

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 59) filed on April 6, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 62) on May 9, 2023, opposing confirmation because the debtor is delinquent under the proposed plan.

Creditors, Ernest and Marcia Meinhardt, Trustees of the E and M Meinhardt Family Trust dated 5/3/1995; Edward J. Roberts, Trustee, Sunset Trust Dated October 4, 2000; Jane Dworkin; and David Dworkin, filed an Opposition (Dkt. 65) on May 15, 2023. Creditors oppose because the debtor is delinquent on post-petition and post-confirmation payments. Creditors also assert that debtor will be unable to make the increased plan payments because debtor was unable to make the original payments and now debtor's income is decreasing.

RESPONSE

Debtor responded to both oppositions (dkt. 69) on May 23, 2023. Debtor represents that she will be current on plan payments by May 25, 2023. Debtor further represents that Creditors' claim is properly classified and asserts that there is no legal basis for Creditors' objection to curing post-petition arrears in the plan the same as if they are prepetition arrears. Finally, debtor responds that the debtor's home is insured and she is current on property taxes.

DISCUSSION

The debtor is \$600.00 delinquent in plan payments. Declaration, Dkt. 63. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 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, Alsester Aline Coleman, 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.

7. [23-21144](#)-C-13 KRISTINA COMPHER MOTION FOR RELIEF FROM
[MLG-1](#) Pro Se AUTOMATIC STAY
4-18-23 [[10](#)]
ROLAND QUIZON VS.

Final Ruling: No appearance at the May 30, 2023 hearing is required.

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. 14.

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 for Relief from the Automatic Stay is denied as moot.

The instant case was dismissed on April 21, 2023, for failing to timely file documents. Dkt. 16.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c) (1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate;**

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) **the time the case is dismissed;** or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) **revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.**

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of April 21, 2023, the automatic stay as it applies to the Property, and as it applies to Debtor, was terminated by operation of law. At that time, the Property ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Property on April 21, 2023.

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 for Relief from the Automatic Stay filed by Roland Quizon ("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 denied without prejudice as moot.

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 36 days' notice was provided. Dkt. 68.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Second Amended Chapter 13 Plan (Dkt. 67) filed on April 24, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 71) on May 3, 2023, opposing confirmation on the following grounds:

1. The plan is not feasible; and
2. The plan does not recognize the payments already made to the secured creditors under the previously filed plan.

Creditor, Coastal Capital Group, filed an Opposition (Dkt. 74) on May 16, 2023, opposing confirmation on the following grounds:

1. The plan is not feasible because it relies on increased income from additional pension and disability payments and debtor's son contributing \$742 a month, but it also relies on debtor reducing his expenses by \$4,000 a month.

DISCUSSION

The plan mathematically requires a payment of \$4,415.43 per month, which is greater than the proposed \$2,482.00 payment in months 1-5.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. 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 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,

Christopher Clemons, 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.

9. [23-20655](#)-C-13 JAMES FOX
[PGM](#)-1 Peter Macaluso

MOTION TO VALUE COLLATERAL OF
JPMORGAN CHASE BANK, N.A.
4-19-23 [[18](#)]

Thru #10

No 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 41 days' notice was provided. Dkt. 22.

The Motion to Value is ~~xxxxx~~.

The debtor filed this Motion seeking to value the portion of J.P. Morgan Chase Bank, N.A.'s ("Creditor") claim secured by the debtor's property commonly known as 2019 Toyota Tacoma (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$16,000.00. Declaration, Dckt. 21.

Creditor filed an opposition (dkt. 33) on May 16, 2023 disputing the value of the vehicle. Although the debtor has declared that the vehicle is in need of repairs, creditor has provided evidence the value of the vehicle is \$33,025.00. See Proof of Claim No. 3-1.

Debtor responded (dkt. 37) on May 21, 2023 stating that the Creditor has not provided any admissible evidence of the value of the vehicle.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on April 18, 2019, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a) (9) (hanging paragraph).

Federal Rule of Bankruptcy Procedure 9014(d) provides that testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding. Because there is a disputed material fact, the Matter must be set for evidentiary hearing.

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 Value Collateral and Secured Claim filed by the debtor 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 pursuant to 11 U.S.C.
§ 506(a) is ~~xxxxxxxxxx~~

10. [23-20655](#)-C-13 JAMES FOX
[RDG-1](#) Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-26-23 [[23](#)]

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 34 days' notice was provided. Dkt. 26.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor has failed to amend his schedules even though he has obtained new employment;
2. Plan is not feasible; and
3. Plan relies on Motion to Value that has not been granted.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on May 16, 2023. Dkt. 35. Debtor replied that he has filed amended Schedules I & J. Debtor further states that the IRS and FTB proof of claims were based upon estimated returns, but that the timely filed returns resulted in a much lower amount to the IRS and a refund from FTB. Finally, debtor believes the motion to value, which is set to be heard above, will be granted. Therefore, debtor request the plan be confirmed.

DISCUSSION

A review of the docket shows that amended Schedules I & J were filed on May 8, 2023. Dkt. 31.

Contrary to debtor's assertion, opposition to the Motion to Value above was filed and the motion has not been granted yet. Therefore, until the Motion is granted the plan is not feasible.

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, Russell Greer, 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.

11. [18-22662](#)-C-13 RAJINDAR SINGH
[PGM-2](#) Peter Macaluso

MOTION TO MODIFY PLAN
4-5-23 [[141](#)]

Final Ruling: No appearance at the May 30, 2023 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 55 days' notice was provided. Dkt. 146.

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, Rajinder Kaur 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 Motion is granted, the Modified Chapter 13 Plan (Dkt. 144) 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.

12. [18-22662](#)-C-13 RAJINDAR SINGH
[PGM](#)-3 Peter Macaluso

MOTION TO EMPLOY BERKSHIRE
HATHAWAY HOME SERVICES AS
REALTOR(S)
5-10-23 [[151](#)]

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 20 days' notice was provided. Dkt. 155.

The Motion to Employ is granted.

Debtor, Rajinder Singh, seeks to employ Berkshire Hathaway Home Services as a realtor for the estate pursuant to Local Bankruptcy Rule 9014-1(f)(1) and Bankruptcy Code Sections 328(a) and 330.

Debtor argues the realtor is necessary to market and sale the property commonly known as 8272 Summer Falls Circle, Sacramento, California.

The Declaration of Lakhbir Gill filed in support of the Motion attests to the realtor's disinterestedness and experience. Dkt. 154.

DISCUSSION

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee's duties under Title 11. To be so employed by the trustee or debtor in possession, the professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of the realtor, considering the declaration demonstrating that the realtor does not hold an adverse interest to the Estate and is a disinterested persons, the nature and scope of the services to be provided, the court grants the Motion on the terms and conditions set forth in the Agreement filed as Exhibit B, Dkt. 153. Approval of the commission is subject to the provisions of 11 U.S.C. § 328 and review of the fee at the time of final allowance of fees for the professional.

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 Employ filed by Rajinder 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 Motion to Employ is granted, and debtor is authorized to employ Berkshire Hathaway Home Services as a realtor for the estate on the terms and conditions as set forth in the Listing Agreement filed as Exhibit B, Dkt. 153.

IT IS FURTHER ORDERED that no compensation is permitted except upon court order following an application pursuant to 11 U.S.C. § 330 and subject to the provisions of 11 U.S.C. § 328.

13. [18-22662](#)-C-13 RAJINDAR SINGH CONTINUED MOTION TO RECONVERT
[RDG-3](#) Peter Macaluso CASE FROM CHAPTER 13 TO CHAPTER
7
3-10-23 [[133](#)]

No 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 18 days' notice was provided. Dkt. 136.

The Motion to reconvert case to Chapter 7 is ~~xxxxxxx~~

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for reconverting to Chapter 7 exists because the debtor has not made a payment to the Trustee since August 4, 2022.

The Motion also argues debtor is \$13,350 delinquent in plan payments, which is supported by declaration. Dkt. 135.

Failure to maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

The debtor filed an opposition (dkt. 137) on March 21, 2023 requesting a continuance of the matter because debtor's counsel has not been able to assess the case and prepare a new plan.

The motion was continued to allow the debtor time to file a motion to modify plan and sell property.

A review of the docket shows that a new plan and a motion to confirm were filed on April 5, 2023. Dkts. 141 & 144.

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 to reconvert the Chapter 13 case to Chapter 7 filed by the Chapter 13 Trustee, Russell Greer, 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 to Reconvert the case to Chapter 7 from Chapter 13 is ~~xxxxxxxxxx~~

Final Ruling: No appearance at the May 30, 2023 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 35 days' notice was provided. Dkt. 36.

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, Kristy Ernst, 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. 32) 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 48 days' notice was provided. Dkt. 25.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 20) filed on April 12, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 28) on May 3, 2023, opposing confirmation on the following grounds:

1. The motion fails to allege significant factual matters under 11 U.S.C. § 1325(a)(1)-(9);
2. The debtor is delinquent in plan payments;
3. The plan requires monthly payments to creditors in amounts less than the minimum amount; and
4. The plan is not feasible.

DISCUSSION

The debtor is \$9,232.16 delinquent in plan payments. Declaration, Dkt. 29. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

The plan mathematically requires a payment of \$4,642.00 per month, which is greater than the proposed \$4,616.08 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. 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 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, Romeo

Manikan Palma, 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.

16. [20-20775](#)-C-13 EBALINA HERNANDEZ AND CONTINUED MOTION TO USE CASH
[PGM](#)-2 ALAN TRUJILLO DOMINGUEZ COLLATERAL
Peter Macaluso 3-28-23 [[52](#)]

No 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 28 days' notice was provided. Dkt. 55.

The Motion for Authority to Use Cash Collateral is ~~xxxxxx~~

Ebalina Hernandez and Alan Dominguez ("Debtors") move for an order approving the use of cash collateral from insurance proceeds of a 2012 Toyota Tacoma ("Property") that was secured by Golden 1 Credit Union ("Creditor"). Debtors request the use of cash collateral to purchase a new vehicle because two vehicles are needed in debtors household.

Creditor, The Golden 1 Credit Union ("Creditor"), opposes the motion because the contract between the parties provides that not only shall Creditor have a lien over the vehicle, but also have a security interest in money received from insurance placed on the vehicle. Therefore, Creditor argues that the money received from insurance should be paid over to Creditor, and there is no adequate substitute to the collateral other than the insurance funds paid.

APPLICABLE LAW

As a debtor in Chapter 13, the debtor, sell, or lease property of the estate pursuant to 11 U.S.C. § 363(b), (d), (f) & (l). In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless-

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease-

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b) (2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

DISCUSSION

At the hearing **xxxxxxx**

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 for Authority to Use Cash Collateral filed by Ebalina Hernandez and Alan Dominguez ("Debtors") 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 **xxxxxxx**

17. [22-22787](#)-C-13 AMRIT LAL
[AVN-2](#) Anh Nguyen

CONTINUED MOTION TO CONFIRM
PLAN
3-26-23 [[57](#)]

Final Ruling: No appearance at the May 30, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The prior hearing was continued to allow debtor's counsel to file the certificate of service. The Certificate of Service shows that 43 days' notice was provided. Dkt. 55.

The Motion to Confirm is granted

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 58) filed on March 26, 2023.

At the prior hearing creditor, EBF Holdings LLC, raised a limited objection to a proof of claim no. 14-1, but otherwise does not object to confirmation.

No other opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). 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 Confirm filed by the debtor, Amrit Lal, 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 debtor's Amended Chapter 13 Plan (Dkt. 58) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), 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.