

**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: June 4, 2024

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

June 4, 2024 at 1:00 p.m.

1. [23-90509](#)-B-13 ANITA STUBENRAUCH MOTION TO CONFIRM PLAN
 [MDM](#)-3 Matthew D Metzger 4-29-24 [[59](#)]

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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

June 4, 2024 at 1:00 p.m.

2. [24-90118](#)-B-13 TONY ABILA
[MDA](#)-1 Mary D. Anderson

MOTION TO CONFIRM PLAN
4-21-24 [[21](#)]

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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

3. [22-90323](#)-B-13 PAUL/SUSAN GOLDEN MOTION TO SELL
[LBF](#)-1 Lauren Franzella 5-3-24 [[43](#)]

Final Ruling

The motion has been set for hearing on the notice required by 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). The defaults of the non-responding parties are entered.

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 grant the motion to sell.

The Bankruptcy Code permits Chapter 13 debtors to sell property of the estate after a noticed hearing. 11 U.S.C. §§ 363(b) and 1303. Debtors propose to sell property described as 4709 Via Giardiano, Modesto, California ("Property"). The motion seeks approval to sell the Property for \$555,000.00. The motion states that Newrez LLC dba Shellpoint Mortgage Servicing ("Creditor") does not oppose the sale provided it is paid in full out of escrow pursuant to an updated payoff demand, or Creditor agrees in a duly notarized writing to any sale providing for less than payment in full.

A non-opposition was filed by Morgan Stanley Mortgage Loan Trust 2007-7AX, U.S. Bank National Association, as Trustee, successor in interest to Bank of America, National Association, as Trustee, successor by merger to LaSalle Bank National Association, as Trustee as serviced by Newrez LLC dba Shellpoint Mortgage Servicing.

Proposed purchaser Barbara Ruddy has agreed to purchase the Property for \$555,000.00. The sale price is all cash and is an arm's length transaction. Debtors do not intend to file a modified plan since the proceeds from the sale of the Property will be used to pay 100% of all timely filed claims.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the estate. The motion is granted.

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

Debtor's attorney shall submit an order consistent with the Trustee's standard sale language. The order shall be approved by the Trustee.

4. [24-90133](#)-B-13 ALISON DEVINE
[LGT](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-8-24 [[17](#)]

Final Ruling

The *initial* Chapter 13 Plan filed March 22, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is **to continue the hearing to June 11, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, based on the filed Forms 122C-2 and 122C-1, Debtor's projected disposable income available to be applied to make payments to unsecured creditors pursuant to 11 U.S.C. § 1325(b)(1)(B) is \$467.06 for 60 months or \$45,217.00, which would result in a 61.98% dividend to the general unsecured creditors. Debtor's plan provides for a 36.37% distribution to Debtor's general unsecured creditors. Therefore, Debtor's plan fails to comply with 11 U.S.C. § 1325(b)(1)(B) and may not be confirmed.

Second, Debtor's plan is not feasible under 11 U.S.C. § 1325(a)(6). Section 2.01 of Debtor's plan provides for plan payments of \$1,428.00 for 60 months. Debtor has failed to provide admissible evidence that the plan is mathematically feasible. Trustee's calculations indicate that Debtor's plan payment will need to be at least \$1,639.00 for 60 months in order for the plan to comply with 11 U.S.C. § 1325(b)(1)(B).

The plan filed March 22, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on June 7, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on June 11, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on June 11, 2024, at 1:00 p.m.

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

The court will issue an order.

5. [24-90060](#)-B-13 LUIS/ANGELA OLIVEIRA CONTINUED OBJECTION TO
[LGT](#)-1 David C. Johnston CONFIRMATION OF PLAN BY LILIAN
Thru #6 G. TSANG
3-26-24 [[24](#)]

CONTINUED TO 6/25/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 6/21/24.

Final Ruling

No appearance at the June 4, 2024, hearing is required. The court will issue an order.

6. [24-90060](#)-B-13 LUIS/ANGELA OLIVEIRA CONTINUED OBJECTION TO
[RAS](#)-1 David C. Johnston CONFIRMATION OF PLAN BY
DEUTSCHE BANK NATIONAL TRUST
COMPANY
3-12-24 [[21](#)]

CONTINUED TO 6/25/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 6/21/24.

Final Ruling

No appearance at the June 4, 2024, hearing is required. The court will issue an order.