

**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: June 6, 2023

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

June 6, 2023 at 1:00 p.m.

1. [20-20763](#)-B-13 DAVID/WILLIETTE THOMAS MOTION TO REFINANCE
[JCK](#)-2 Gregory J. Smith 5-8-23 [[58](#)]

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). Opposition was filed.

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 refinance.

Debtors seek court approval to refinance real property commonly known as 5556 Victoria Place, Ellenwood, Georgia ("Property") with Cardinal Financial Company ("Creditor"). Debtors inherited the Property upon the passing of David Tomas' mother Doris M. Thomas. Debtors state that there is no current mortgage on the Property and its estimated value is \$330,000.00. Debtors will receive a \$96,662.00 loan amount, of which \$60,000.00 will be used to pay off the plan at 100%. The motion is supported by the Declaration of David E Thomas and Williette Thomas. The Declaration affirms Debtors' desire to refinance the Property.

The Chapter 13 Trustee filed an objection stating that no estimated closing statement was filed. This has since been resolved with the filing of Debtors supplemental response. The Trustee also requests that the following provisions be included in the order approving the sale of real property:

1. The refinance is approved provided all liens, if any, are paid in full in a manner consistent with the plan, notwithstanding relief of stay that has been entered.
2. The Trustee shall approve the title company and escrow company to be used in connection with the refinance. This approval shall not be unreasonably withheld.
3. The Trustee shall approve the estimated closing statement to be prepared in connection with the refinance, and when approved, disbursement may only be made in accordance with the approved estimated closing statement.

The repayment of the new loan does not appear to unduly jeopardize Debtors' performance of the plan filed November 3, 2020, and will in fact pay off the plan. The motion complying with the provisions of 11 U.S.C. § 364(d) will be granted.

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

The court will issue an order.

June 6, 2023 at 1:00 p.m.

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2. [23-21491](#)-B-13 LINDA SAEFONG AND KAO MOTION TO VALUE COLLATERAL OF
[MC-1](#) SAEPHAN BMW FINANCIAL SERVICES N.A.,
Muoi Chea LLC
5-15-23 [[12](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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 **conditionally value the secured claim of BMW Financial Services N.A. at \$17,392.00 and continue the matter to June 13, 2023, at 1:00 p.m.**

Debtors move to value the secured claim of BMW Financial Services N.A. ("Creditor"). Debtors are the owners of a 2017 BMW X1 ("Vehicle"). Debtors seek to value the Vehicle at a replacement value of \$17,392.00 as of the petition filing date. As the owners, Debtors' opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 6-1 filed by BMW Financial Services is the claim which may be the subject of the present motion.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on October 27, 2020, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$27,000.00. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$17,392.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is conditionally granted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, June 9, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 13, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on June 13, 2023, at 1:00 p.m.

3. [22-23010](#)-B-13 SALVADOR CHAPARRO
[RDG](#)-2 Gary Ray Fraley

CONTINUED MOTION TO DISMISS
CASE
5-16-23 [[82](#)]

Final Ruling

This matter was continued from May 30, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 2, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 86, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on June 6, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.

4. [22-22683](#)-B-13 MONIQUE ZE
[RDG](#)-2 Richard L. Sturdevant

CONTINUED MOTION TO DISMISS
CASE
5-16-23 [[77](#)]

Final Ruling

This matter was continued from May 30, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 2, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 83, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on June 6, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.