



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

June 25, 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.

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UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

June 25, 2024 at 1:30 p.m.

1. [20-20109](#)-C-13 KARLA SLADARIU CONTINUED MOTION TO MODIFY PLAN
[PGM](#)-2 Peter Macaluso 4-1-24 [[127](#)]

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 57 days' notice was provided. Dkt. 132.

The Motion to Modify is denied.
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The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 129) filed on April 1, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 135) on May 14, 2024, opposing confirmation on the following grounds:

1. Debtor is delinquent in plan payments; and
2. The plan fails to fully provide for postpetition arrears to PHH Mortgage.

The debtor filed a reply (dkt. 138) on May 21, 2024, representing that the April payment is in transit and once the payment is posted the postpetition arrears will be correct under the modified plan.

The motion was continued to allow for the payment to be received by the Chapter 13 Trustee, and allow debtor's counsel to meet and confer about postpetition arrears.

DISCUSSION

The debtor is \$3,000.00 delinquent in plan payments. Declaration, Dkt. 136. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

Notwithstanding whether the plan fully provides for the postpetition arrearage as the Trustee argues, 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).

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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 Confirm filed by the debtor, Karla Sladariu, 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.

2. [24-21109](#)-C-13 LAJUAN ANDREWS
[LGT](#)-1 Richard Jare

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
5-7-24 [[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 21 days' notice was provided. Dkt. 17.

The Objection to Confirmation of Plan is overruled.

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

1. The 341 meeting has not yet concluded.

DISCUSSION

The motion was continued to allow the continued meeting of creditors to occur, which it did on May 30. A review of the docket confirms that the debtor appeared at the continued 341 meeting on May 30 and the meeting was concluded as to the debtor.

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, 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 overruled, and the debtor's Chapter 13 Plan (Dkt. 3), is confirmed. An appropriate order confirming the Chapter 13 Plan shall be prepared and signed by debtor and the Chapter 13 Trustee. The Chapter 13 Trustee will submit the proposed order to the court.

Final Ruling: No appearance at the June 25, 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 47 days' notice was provided. Dkt. 195.

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 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, Brett Wood Hutchens and Susan Evette Hutchens, 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. 194) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. An appropriate order confirming the Chapter 13 Plan shall be prepared and signed by debtor and the Chapter 13 Trustee. The Chapter 13 Trustee will submit the proposed order to the court.

4. [24-21329](#)-C-7 ADAM ESPINOZA
[LGT](#)-1 Thomas Amberg

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-20-24 [[14](#)]

CASE CONVERTED: 05/21/24

Final Ruling: No appearance at the June 25, 2024 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice.

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 is overruled as moot.

The Chapter 13 trustee filed this Objection on May 20, 2024. Thereafter, the debtor filed a Notice of Conversion, converting the case to a proceeding under Chapter 7. Dkt. 18.

The case no longer being under Chapter 13, the Objection shall be overruled 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 Objection to Confirmation filed by Lilian G. 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 overruled as moot.

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6. [24-21330](#)-C-13 ALLEN/STEPHANIE GRANADO OBJECTION TO CONFIRMATION OF
[SKI](#)-1 Thomas Amberg PLAN BY CARMAX BUSINESS
SERVICES, LLC
5-21-24 [[18](#)]

Final Ruling: No appearance at the June 25, 2024 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 35 days' notice was provided. Dkt. 22.

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 Carmax Business Services, LLC filed this Objection To Confirmation on May, 21, 2024. Thereafter, the debtor and Creditor filed a stipulation resolving the issue and which withdrew the objection. Dkts. 26, 28.

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 Carmax Business Services, 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 the Objection is overruled as moot.

7. [23-22836](#)-C-13 ARTHUR ROBINSON
[EMU](#)-3 Peter Macaluso

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
4-3-24 [[72](#)]

TIA JOHNSON VS.

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 55 days' notice was provided. Dckt. 80.

The Motion for Relief from the Automatic Stay is xxxxxx.

Tia Renae Johnson ("Movant") filed this Motion seeking relief from the automatic stay to allow a Verified Complaint for Partition in Sacramento County (the "Litigation") to be concluded.

Movant argues that the co-debtor stay does not adequately protect her because Movant received the consideration for the claim held and she is therefore, the actual debtor. Declaration, Dkt. 75.

DEBTOR'S OPPOSITION

Debtor filed an opposition on May 11, 2024, arguing that the Movant filed a proof of claim in this case and the plan fully provides for the claim as a class 2 claim in the confirmed plan. Therefore, debtor asserts that motion fails to provide cause why relief should be granted.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8-9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. See *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v.*

Sanders (In re Santa Clara Cty. Fair Ass'n), 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

At the hearing xxxxxxxxxxxx

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 Relief from the Automatic Stay filed by Tia Renae Johnson ("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 automatic stay provisions of 11 U.S.C. § 362(a) are xxxxxxxxxxxx

Final Ruling: No appearance at the June 25, 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 61 days' notice was provided. Dkt. 87.

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 Confirm is granted.

The debtors filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 84) filed on April 25, 2024.

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 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 debtors, Lisa and Sean Byrd, 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. 84) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. An appropriate order confirming the Chapter 13 Plan shall be prepared and signed by debtor and the Chapter 13 Trustee. The Chapter 13 Trustee will submit the proposed order to the court.

9. [24-20043](#)-C-13 LESLIE PERRY
[HLG](#)-1 Kristy Hernandez

MOTION TO CONFIRM PLAN
4-10-24 [[32](#)]

Final Ruling: No appearance at the June 25, 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 76 days' notice was provided. Dkt. 38.

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 Confirm is granted.

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 34) filed on April 10, 2024.

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 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, Leslie Perry, 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. 34) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. An appropriate order confirming the Chapter 13 Plan shall be prepared and signed by debtor and the Chapter 13 Trustee. The Chapter 13 Trustee will submit the proposed order to the court.

Final Ruling: No appearance at the June 25, 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 60 days' notice was provided. Dkt. 70.

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 Confirm is granted.

The debtors filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 68) filed on April 26, 2024.

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 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 debtors, Steven and Tammy Carrol, 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. 68) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. An appropriate order confirming the Chapter 13 Plan shall be prepared and signed by debtor and the Chapter 13 Trustee. The Chapter 13 Trustee will submit the proposed order to the court.

11. [24-21356](#)-C-13 RYAN OHLINGER
[LGT](#)-1 Julius Cherry

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G TSANG
5-23-24 [[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 34 days' notice was provided. Dkt. 19.

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. The 341 meeting of creditors has not yet concluded; and
2. The plan is not feasible.

DISCUSSION

A review of the docket shows that the continued meeting of creditors is to be held on July 11, 2024. Therefore, that is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Local Rule 2016-1(c)(4)(B) states that the Chapter 13 trustee shall pay debtor's counsel equal monthly installments over the term of the plan. The plan's provision to pay in monthly dividend of \$1,500.00 does not follow the local rule on payment of counsel's fees, this is reason to deny confirmation.

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

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.

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 27 days' notice was provided. Dkt. 12.

The Motion to Extend the Automatic Stay is granted.

Guillermo C. Miralrio ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on May 6, 2024, after Debtor failed to timely file all documents. Order, Bankr. E.D. Cal. No. 24-21568, Dkt. 19. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that the previous case was dismissed because a computer glitch caused the schedules to not be filed with the balance of the rest of the documents.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at *6 (Bankr. D. Haw. June 22, 2011)

(citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c) (3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

Debtor has sufficiently rebutted the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The Motion is granted, and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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 Extend the Automatic Stay filed by Guillermo C. Miralrio 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, and the automatic stay is extended pursuant to 11 U.S.C. § 362(c) (3) (B) for all purposes and parties, unless terminated by operation of law or further order of this court.

13. [24-22088](#)-C-13 LA KRISHA KING
[CJC](#)-145 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-30-24 [[9](#)]

DEBTOR DISMISSED: 06/03/24
THR CALIFORNIA L.P. VS.

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 26 days' notice was provided. Dkt. 14.

The Motion for Relief from the Automatic Stay is denied as moot.

The instant case was dismissed on June 3, 2024, for failure to timely file documents. Dkt. 17.

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 June 3, 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 June 3, 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 THR California, L.P. ("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.

14. [24-21291](#)-C-13 THERESA WALKER
[LGT](#)-1 Pauldeep Bains

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-21-24 [[17](#)]

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 36 days' notice was provided. Dkt. 19.

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. The plan does not provide for all of the debtor's future earnings; and
2. The plan does not provide for all of the debtor's projected disposable income to be applied to unsecured creditors.

DISCUSSION

The plan proposes a monthly payment that 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.

15. [23-22893](#)-C-13 CHERYL RYCE
[WLG](#)-8 Nicholas Wajda

MOTION TO SELL O.S.T.
6-3-24 [[114](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(3) which requires order shortening time. The order shortening time was granted on June 3, 2014 setting June 25, 2024 for the time of the hearing. Dkt. 123.

The Motion to Sell is granted.

Cheryl Ryce ("Debtor") filed this Motion pursuant to 11 U.S.C. §§ 363 and 1303 seeking to sell property commonly known as 6812 Gold Run Avenue, Sacramento, CA ("Property").

The proposed purchaser of the Property is M & R Capital LLC, and the proposed purchase price is \$370,000.00.

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~~.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the proceeds will pay the plan in full with 100% dividend to unsecured creditors.

Broker's Commission

Movant has estimated that a 6% percent broker's commission from the sale of the Property will equal approximately \$22,200.00. As part of the sale in the best interest of the Estate, the court permits Movant to pay the brokers an amount not more than six 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 Cheryl Ryce ("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 granted. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13

trustee for approval as to form, and if so approved submit the proposed order to the court.

IT IS FURTHER ORDERED that Movant is authorized to pay a real estate brokers' commission in an amount not more than six percent of the actual purchase price upon consummation of the sale.

16. [23-23897](#)-C-13 PAUL/GLENDA DE LA TORRE MOTION TO CONFIRM PLAN
[PGM](#)-1 Peter Macaluso 4-26-24 [[35](#)]

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 61 days' notice was provided. Dkt. 40.

The Motion to Confirm is denied.

The debtors filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 37) filed on April 26, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 47) on June 11, 2024, opposing confirmation on the following grounds:

1. The plan provides for attorney fees to be paid at non-equal monthly payment over the life of the plan.

DISCUSSION

Local Rule 2016-1(c)(4)(B) states that the Chapter 13 trustee shall pay debtor's counsel equal monthly installments over the term of the plan. The plan's provision to pay in monthly dividend of \$118.18 does not follow the local rule on payment of counsel's fees, this is reason to deny confirmation.

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 debtors, Paul and Glenda De La Torre, 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.