

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: FRIDAY
DATE: JUNE 30, 2017
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [15-13002](#)-A-13 KARLA DAY
VRP-3
KARLA DAY/MV
VARDUHI PETROSYAN/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
5-1-17 [[48](#)]

No tentative ruling

2. [17-11302](#)-A-13 GABRIEL/ADELA AGTARAP
MHM-1
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
5-25-17 [[32](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses

this case.

3. [17-11708](#)-A-13 DAVID MOORE ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-5-17 [[17](#)]
MARK ZIMMERMAN/Atty. for dbt.

No tentative ruling

4. [17-10409](#)-A-13 RUVICELA NUNEZ MOTION TO DISMISS CASE
MHM-2 5-22-17 [[25](#)]
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

Tentative Ruling

This motion to dismiss is based on the debtor's failure to file a motion to value collateral of Ditech Financial that is real property located at 2025 Stanford Ct., Los Banos, CA. The debtor's motion to value this collateral has been granted on this calendar with a final ruling. The motion is denied as moot.

5. [17-10409](#)-A-13 RUVICELA NUNEZ MOTION TO VALUE COLLATERAL OF
TCS-1 DITECH FINANCIAL, LLC
RUVICELA NUNEZ/MV 5-31-17 [[29](#)]
TIMOTHY SPRINGER/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Real Property; Principal Residence]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may strip off a wholly unsecured junior lien encumbering the debtor's principal residence. 11 U.S.C. §§ 506(a), 1322(b)(2); *In re Lam*, 211 B.R. 36, 40-42 (B.A.P. 9th Cir. 1997); *In re Zimmer*, 313 F.3d 1220, 1222-25 (9th Cir. 2002) (holding that the trial court erred in deciding that a wholly unsecured lien was within the scope of the antimodification clause of § 1322(b)(2) of the Bankruptcy Code). A motion to value the debtor's principal residence should be granted upon a threefold showing by the moving party. First, the moving party must proceed by noticed motion. Fed. R.

Bankr. P. 3012. Second, the motion must be served on the holder of the secured claim. Fed. R. Bankr. P. 3012, 9014(a); LBR 3015-1(j). Third, the moving party must prove by admissible evidence that the debt secured by liens senior to the respondent's claim exceeds the value of the principal residence. 11 U.S.C. § 506(a); *Lam*, 211 B.R. at 40-42; *Zimmer*, 313 F.3d at 1222-25. "In the absence of contrary evidence, an owner's opinion of property value may be conclusive." *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

The debtor requests that the court value real property collateral. The collateral is the debtor's principal residence located at 2025 Stanford Court, Los Banos, CA.

The court values the collateral at \$235,400. The debt secured by liens senior to the respondent's lien exceeds the value of the collateral. Because the amount owed to senior lienholders exceeds the collateral's value, the respondent's claim is wholly unsecured and no portion will be allowed as a secured claim. See 11 U.S.C. § 506(a).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value real property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The real property collateral located at 2025 Stanford Court, Los Banos, CA, has a value of \$235,400. The collateral is encumbered by senior liens securing debt that exceeds the collateral's value. The respondent has a secured claim in the amount of \$0.00 and a general unsecured claim for the balance of the claim.

6. [17-10116](#)-A-13 PAULA PARDO
TOG-1
PAULA PARDO/MV

THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO VALUE
COLLATERAL OF DITECH FINANCIAL,
LLC
2-24-17 [[13](#)]

Tentative Ruling

Motion: Value Collateral

Notice: Written opposition filed by the responding party

Disposition: Continued for an evidentiary hearing

Order: Civil minute order or scheduling order

The motion seeks to value real property collateral that is the moving party's principal residence. The court will hold a scheduling conference for the purpose of setting an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d).

An evidentiary hearing is required because the following disputed, material factual issues must be resolved before the court can rule on the relief requested: (1) the value of the real property collateral located at 4306 E. Andrews, Fresno, CA, and (2) the amount of the first trust deed.

All parties shall appear at the hearing for the purpose of determining the nature and scope of the matter, identifying the disputed and undisputed issues, and establishing the relevant scheduling dates and deadlines. Alternatively, the court may continue the matter to allow the parties to file a joint status report that states:

- (1) all relief sought and the grounds for such relief;
- (2) the disputed factual or legal issues;
- (3) the undisputed factual or legal issues;
- (4) whether discovery is necessary or waived;
- (5) the deadline for Rule 26(a)(1)(A) initial disclosures;
- (6) the deadline for Rule 26(a)(2) expert disclosures (including written reports);
- (7) the deadline for the close of discovery;
- (8) whether the alternate-direct testimony procedure will be used;
- (9) the deadlines for any dispositive motions or evidentiary motions;
- (10) the dates for the evidentiary hearing and the trial time that will be required;
- (11) any other such matters as may be necessary or expedient to the resolution of these issues.

Unless the parties request more time, such a joint status report shall be filed 14 days in advance of the continued hearing date. The parties may jointly address such issues orally at the continued hearing in lieu of a written joint status report.

7. [13-13923](#)-A-13 LILLY JIMENEZ
PBB-2
LILLY JIMENEZ/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
5-25-17 [[54](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden

of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

8. [17-10823](#)-A-13 SIMON/RUTH LOPEZ MOTION TO CONFIRM PLAN
JRL-3 5-23-17 [[51](#)]
SIMON LOPEZ/MV
JERRY LOWE/Atty. for dbt.

Final Ruling

The case dismissed, the matter is denied as moot.

9. [17-10244](#)-A-13 DANIEL AMADOR MOTION TO DISMISS CASE
MHM-2 5-24-17 [[54](#)]
MICHAEL MEYER/MV
DISMISSED

Tentative Ruling

The debtor has requested that the hearing on this motion to dismiss be continued due to a tragic event in the debtor's family. The hearing on this matter will be continued to July 27, 2017, at 9:00 a.m.

10. [16-13545](#)-A-13 JIMMY/LUCERO TORRES MOTION TO MODIFY PLAN
BDB-1 5-16-17 [[23](#)]
JIMMY TORRES/MV
BENNY BARCO/Atty. for dbt.

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

11. [17-10647](#)-A-13 RAMIRO LOPEZ
TOG-1
RAMIRO LOPEZ/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO CONFIRM PLAN
5-10-17 [[27](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

12. [17-10647](#)-A-13 RAMIRO LOPEZ
TOG-2
RAMIRO LOPEZ/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
SANTANDER CONSUMER, USA
5-22-17 [[36](#)]

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for

personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2011 Volkswagen Golf. The debt secured by the vehicle was not incurred within the 910-day period preceding the date of the petition. The court values the vehicle at \$6,712.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value collateral consisting of a motor vehicle has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a 2011 Volkswagen Golf has a value of \$6,712. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$6,712 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

13. [17-10250](#)-A-13 SHENG/CHAO VANG
FW-1
SHENG VANG/MV

GABRIEL WADDELL/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO VALUE
COLLATERAL OF SPECIALIZED LOAN
SERVICING LLC
2-23-17 [[17](#)]

No tentative ruling

14. [17-11453](#)-A-13 DAMON/TONYA STRANGE MOTION TO DISMISS CASE
MHM-1 5-26-17 [[19](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

Final Ruling

Having been withdrawn, the matter is deemed voluntarily dismissed.
The court drops the matter from calendar.

15. [13-14264](#)-A-13 JOSE IBARRA AND ROSEMARY CONTINUED MOTION TO MODIFY PLAN
TOG-1 GUTIERREZ 4-11-17 [[34](#)]
JOSE IBARRA/MV
THOMAS GILLIS/Atty. for dbt.
DISMISSED

Final Ruling

The case dismissed, the matter is denied as moot.

16. [17-11367](#)-A-13 KEVIN/JULIE GERHARDT MOTION TO CONFIRM PLAN
PBB-2 5-19-17 [[28](#)]
KEVIN GERHARDT/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling

17. [17-11270](#)-A-13 AMY ARCHER MOTION TO VALUE COLLATERAL OF
PBB-1 CREST FINANCIAL SERVICES, LLC
AMY ARCHER/MV 6-1-17 [[18](#)]
PETER BUNTING/Atty. for dbt.

Final Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An

allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as mattress and box spring. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$500.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a mattress and box spring has a value of \$500. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$500 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

18. [17-11270](#)-A-13 AMY ARCHER
PBB-2
AMY ARCHER/MV
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
AMERICAN FIRST FINANCE, INC.
6-1-17 [\[24\]](#)

Final Ruling

Motion: Value Collateral [Personal Property; Non-vehicular]

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the respondent is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

The right to value non-vehicular, personal property collateral in which the creditor has a purchase money security interest is limited to such collateral securing a debt that was incurred more than one year before the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of personal property described as a mattress and box spring. The debt secured by such property was not incurred within the 1-year period preceding the date of the petition. The court values the collateral at \$500.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to value non-vehicular, personal property collateral has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The personal property collateral described as a mattress and box spring has a value of \$500. One senior lien against the collateral has been identified. The respondent has a secured claim in the amount of \$0.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

19. [17-10474](#)-A-13 ALVARO DIAZ AND MARISELA MOTION TO CONFIRM PLAN
TOG-2 LUA 5-10-17 [[32](#)]
ALVARO DIAZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

OBJECTION TO CONFIRMATION

The trustee's objection is that the plan has not been correctly completed. A Class 2 claim has been provided for, but the Class 2 claimant has not been identified and a description of the collateral has been neglected. In addition, the details of the Class 2 claim have been inserted into the boxes of the Class 2 chart that are not intended for text.

Because the trustee cannot pay a secured Class 2 claim to a claimholder that has not been identified in the plan, the plan cannot be performed. Ambiguous, unclear or vague plan provisions should not be approved because they fail to give sufficient notice to creditors affected by the provisions of their treatment under the plan. See *County of Ventura Tax Collector v. Brawders (In re Brawders)*, 325 B.R. 405, 411 (B.A.P. 9th Cir. 2005) ("[A] plan should clearly state its intended effect on a given issue.").

Accordingly, the court will deny confirmation.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtors' motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the motion is denied.

20. [16-14476](#)-A-13 RAUL GUTIERREZ MOTION TO DISMISS CASE
MHM-2 6-2-17 [[57](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

The case converted to a chapter 7 on June 19, 2017, the matter is denied as moot.

21. [16-14476](#)-A-13 RAUL GUTIERREZ MOTION TO CONFIRM PLAN
TOG-2 5-15-17 [[49](#)]
RAUL GUTIERREZ/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

The case converted to a chapter 7 on June 19, 2017, the matter is denied as moot.

22. [17-12077](#)-A-13 STEVEN/SARAH WILLIAMS CONTINUED MOTION TO IMPOSE
SL-1 AUTOMATIC STAY
STEVEN WILLIAMS/MV 5-31-17 [[11](#)]
SCOTT LYONS/Atty. for dbt.

No tentative ruling

23. [17-11295](#)-A-13 SANDEEP KAUR MOTION TO DISMISS CASE
MHM-1 5-26-17 [[16](#)]
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.