



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

July 11, 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**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

Video web address:

<https://www.zoomgov.com/j/1607091070?pwd=b2FMVXJDbVJWbTNMTEFheUdpTVFLUT09>

Meeting ID: 160 709 1070

Password: 771184

Zoom.Gov Telephone: (669) 254-5252 (Toll Free)

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. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medicaid credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

July 11, 2023 at 1:30 p.m.

-
1. [20-23327](#)-C-13 DOUGLAS BRAUNER MOTION TO EMPLOY CBRE, INC AS
[WW-7](#) Mark Wolff BROKER(S)
6-5-23 [[93](#)]

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 36 days' notice was provided. Dkt. 97.

<p>The Motion to Employ is granted.</p>
--

Debtor seeks to employ CBRE, Inc. as a real estate agent and broker for the estate pursuant to Local Bankruptcy Rule 9014-1(f) (1) and Bankruptcy Code Sections 328(a) and 330.

Debtor argues the agent and broker is necessary to sell the property commonly known as 2301 El Camino Ave., Sacramento, CA.

The Declaration of Mike Luca filed in support of the Motion attests to the agent and broker's disinterestedness and experience. Dkt. 95.

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 agent and broker, considering the declaration demonstrating that the agent and broker 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 C, Dkt. 96. 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 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 to Employ is granted, and Debtor is authorized to employ CBRE, Inc. as agent and broker for the estate on the terms and conditions as set forth in the Agreement filed as Exhibit C, Dkt. 96.

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.

Final Ruling: No appearance at the July 11, 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 42 days' notice was provided. Dkt. 99.

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. 98) filed on May 30, 2023.

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, Debra Thompson, 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. 98) 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.

3. [22-22787](#)-C-13 AMRIT LAL MOTION TO EXTEND DEADLINE TO
[FWP](#)-5 Anh Nguyen FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR AND/OR
MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO
DISCHARGEABILITY OF A DEBT
6-7-23 [[83](#)]

Final Ruling: No appearance at the July 11, 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 34 days' notice was provided. Dkt. 86.

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 Extend Deadline to File a Complaint
Objecting to Discharge is granted.**

EBF Holdings LLC dba Everest Business Funding, a Delaware LLC, ("Movant") moves to extend the deadline, for a third time, to file a complaint objecting to Amrit Lal's ("Debtor") discharge and dischargeability of debt.

The deadline for filing a complaint objecting to discharge is June 13, 2023. Dckt. 80. The Motion requests that the deadline to object to Debtor's discharge be extended through August 11, 2023.

The court may, on motion and after a noticed hearing, extend the time for objecting to the entry of discharge for cause. FED. R. BANKR. P. 4004(b) (1). The court may extend that deadline where the request for the extension of time was filed prior to the expiration of time for objection. *Id.*

The instant Motion was filed on June 7, 2023, before the deadline to object to the discharge of Debtor. The movant and debtor have filed a stipulation agreeing to the extension. Dckt. 83, Ex. 1.

Therefore, the Motion is granted, and the deadline for Movant to object to Debtor's discharge is extended through August 11, 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 to Extend Deadline to File a Complaint Objecting to Discharge filed by EBF Holdings LLC dba Everest Business Funding, a Delaware LLC, ("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, and the deadline for Movant to object to Debtor's discharge is extended through August 11, 2023.

4. [23-21494](#)-C-13 MICHAEL RUNFOLA OBJECTION TO CONFIRMATION OF
[KMM](#)-1 Mikalah Liviakis PLAN BY ALLIED FIRST BANK, SB
5-25-23 [[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 47 days' notice was provided. Dkt. 17.

The Objection to Confirmation of Plan is sustained.

Creditor, Allied First Bank, SB dba Servbank, ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan fails to cure the default on Creditor's claim; and
2. Plan is not feasible.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim. Creditor has now filed a Proof of Claim, Claim No. 6-1.

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. 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 Allied First Bank, SB dba Servbank, 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.

5. [23-21154](#)-C-13 MARK WILLEFORD
[RDG-1](#)

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
5-22-23 [[15](#)]

No 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 38 days' notice was provided. Dkt. 18.

The Objection to Confirmation of Plan is ~~xxxxxxx~~.

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

1. The 341 meeting of creditors has not been concluded;
2. Debtor has failed to file a credit counseling certificate;
3. Debtor has failed to file the Attachment to Schedule I that provides debtor's business income and expenses;
4. Debtor has failed to provide a copy of his full 2021 Federal Income Tax Return; and
5. The plan is not feasible.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on June 13, 2023. Dkt. 23. Debtor represents that meeting of creditors concluded on June 1, 2023. Debtor further represents the credit counseling certificate was filed on May 25, 2023 and the debtor's and non-filing spouse's business income and expenses were filed on June 13, 2023. Debtor also contends that all income tax returns through 2022 have been provided. Finally, debtor agrees to change the monthly dividend for attorney fees.

DISCUSSION

At the prior hearing, the Chapter 13 Trustee represented that he had requested additional documentation from the debtor that had not yet been provided. This matter was continued to allow the debtor some additional time to provide the documentation that was requested.

At the hearing xxxxxxxx

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 **xxxxxxx**