

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

Honorable Fredrick E. Clement  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: TUESDAY**  
**DATE: JULY 20, 2021**  
**CALENDAR: 9:00 A.M. CHAPTER 13 CASES**

**RULINGS**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

**CHANGES TO PREVIOUSLY PUBLISHED RULINGS**

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

**ERRORS IN RULINGS**

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [17-24701](#)-A-13     **IN RE: TONIA RUSSO**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[60\]](#)

NIKKI FARRIS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,100.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

2. [21-21504](#)-A-13     **IN RE: SALLY ALLEN**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.  
CUSICK  
6-9-2021    [\[29\]](#)

RICHARD JARE/ATTY. FOR DBT.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

### **11 U.S.C. § 1325(a)(6)**

A chapter 13 debtor must file a plan that is feasible and must show ability to comply with its terms. Here the plan calls for a monthly payment of \$1,500.00 for 14 months and then \$2,550.00 for 42 months, for a total of 56 months. The debtor's monthly net income is \$1,765.00, Schedule J, ECF No. 36. Secured creditor U.S. Bank (Class 1) filed a proof of claim (Claim No. 2-1), stating a prepetition arrearage of \$41,199.29. The debtor however understated the arrearage in the plan, stating an arrearage of \$30,000.00, ECF No. 13. The trustee calculates that if the plan payments are to continue so that U.S. Bank's arrears are paid in full, the plan will complete in 70 months. In order to complete within 56 months as stated in the plan, the debtor should increase plan payments to an average of \$2,866.00. The debtor therefore failed to show feasibility of the plan and ability to comply with its terms.

### **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 chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

3. [21-21504](#)-A-13     **IN RE: SALLY ALLEN**  
[DWE-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR FAY  
SERVICING, LLC  
5-21-2021     [\[22\]](#)

RICHARD JARE/ATTY. FOR DBT.  
DANE EXNOWSKI/ATTY. FOR MV.

### **Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

### **11 U.S.C. § 1325(a)(6)**

A chapter 13 debtor must file a plan that is feasible and must show ability to comply with its terms.

### Mortgage Arrears

Here the plan calls for a monthly payment of \$1,500.00 for 14 months and then \$2,550.00 for 42 months, for a total of 56 months. The debtor's monthly net income is \$1,765.00, Schedule J, ECF No. 36. The secured creditor (Class 1) filed a proof of claim (Claim No. 2-1), stating a prepetition arrearage of \$41,199.29. The debtor however understated the arrearage in the plan, stating an arrearage of \$30,000.00, ECF No. 13. The trustee calculates that if the plan

were to make up for the \$11,199.29 difference, the debtor's monthly payments should increase to an average of \$2,866.00. ECF No. 29. The debtor therefore failed to show feasibility of the plan and ability to comply with its terms.

#### Step-up Payment after Month 15

Courts have historically found balloon payments or otherwise that are involved in plan payments as insufficient evidence of the debtor's ability to pay under the plan, as they are contingent on a speculative event to take place during the life of the plan, *See In Re Gavia* 24 BR 573,574 (9th Cir. BAP 1982).

Here, Schedule I, ECF No. 36, states that the step-up payment in month 15 under the plan is "based on renting out a room in the condo." There has been no declaration or any other evidence in support of this statement. Therefore, the plan appears to be overly speculative under § 1325(a)(6).

#### **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.

U.S. Bank c/o Fay Servicing's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

4. [21-21205](#)-A-13     **IN RE: BARBARA MARDEN**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-14-2021    [\[59\]](#)

#### **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).

#### **DELINQUENCY**

The chapter 13 trustee moves to dismiss this chapter 13 case for a delinquency in payments under the debtor's proposed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(1), (c)(4) and § 1326(a)(1)(A) to dismiss the case. Payments under the proposed plan are delinquent in the amount of \$600.00.

#### **F.R.B.P. 4002(b)(1)(B)**

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4). The debtor failed to provide proof of his social security number at the meeting of the creditor, F.R.B.P. 4002(b)(1)(B).

#### **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 this chapter 13 case has been presented to the court. Having entered the default of 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 because of the delinquency under the proposed chapter 13 plan in this case. The court hereby dismisses this case.

5. [16-25906](#)-A-13     **IN RE: RANDOLPH/TAMARA RILEY**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021     [\[44\]](#)

MARY TERRANELLA/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

#### **Final Ruling**

Since the trustee requested the court to drop this motion, ECF No. 52, the court will drop this matter from the calendar as moot.

6. [19-21306](#)-A-13     **IN RE: JOSE/MERCEDES MORALES**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[68\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,809.50.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

7. [19-23707](#)-A-13     **IN RE: MICHAEL/CAROLINE PANOPIO**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[110\]](#)

RICHARD JARE/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$7,860.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.



8. [18-22708](#)-A-13     **IN RE: DEDAN KIMANI**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[72\]](#)

ANTHONY MIKHAIL/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,115.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

9. [19-22509](#)-A-13     **IN RE: ULISES MEZA**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[67\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

**No Ruling**

10. [19-27409](#)-A-13     **IN RE: NIKOLAY/NATALIA AKIMOV**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
6-28-2021    [\[43\]](#)

MARK SHMORGON/ATTY. FOR DBT.

**Final Ruling**

The fee having been paid in full, the order to show cause is discharged. The motion will remain pending.

11. [17-23516](#)-A-13     **IN RE: DAN KAO**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[67\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

**No Ruling**

12. [16-20018](#)-A-13     **IN RE: JOJIE GOOSELAU**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[178\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

**No Ruling**

13. [19-23620](#)-A-13     **IN RE: TIFFIANY SCHAFFER**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[33\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$7,250.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

14. [21-21721](#)-A-13     **IN RE: ROSA GONZALEZ-MUNOZ**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
6-23-2021    [\[29\]](#)

RONALD HOLLAND/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Final Ruling**

Since the trustee requested the court to drop this objection, Supplemental Ex Parte Motion to Dismiss Trustee's Objection, filed July 13, 2021, the court will drop this matter from the calendar as moot.

15. [21-21721](#)-A-13     **IN RE: ROSA GONZALEZ-MUNOZ**  
[EMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BANKUNITED, N.A.  
6-2-2021    [\[21\]](#)

RONALD HOLLAND/ATTY. FOR DBT.  
ERIN MCCARTNEY/ATTY. FOR MV.

**Final Ruling**

Since the creditor agreed to withdraw this objection to confirmation after reaching a settlement with the debtor, ECF No. 28, the court will drop this matter from the calendar as moot.

16. [19-21224](#)-A-13     **IN RE: MARLYN GERRINGER**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[34\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$6,500.00.

#### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

17. [21-20825](#)-A-13     **IN RE: STEPHEN WACHIRA**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-9-2021    [\[46\]](#)

JOSEPH CANNING/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

18. [21-21825](#)-A-13     **IN RE: ROSE THORNWELL**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
6-21-2021    [[14](#)]

GARY FRALEY/ATTY. FOR DBT.

### **Final Ruling**

Since the trustee requested the court to drop this objection, Notice of Dismissal of Trustee's Objection, filed July 13, 2021, the court will drop this matter from the calendar as moot.

19. [19-22526](#)-A-13     **IN RE: KENNETH/ANN VALLIER**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [[88](#)]

MATTHEW DECAMINADA/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$20,910.56.

The debtor's opposition states that the will file supplemental Schedules I and J and a modified plan to become current. None has been filed. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$20,910.56.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$20,910.56. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

20. [18-27327](#)-A-13     **IN RE: MEGAN ARNETT-LUCKEY**  
[DPC-5](#)

MOTION TO DISMISS CASE  
6-21-2021    [[129](#)]

CHAD JOHNSON/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,586.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

21. [16-22928](#)-A-13     **IN RE: NICOLE DOW**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[88\]](#)

STEELE LANPHIER/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

#### **No Ruling**

22. [18-27529](#)-A-13     **IN RE: YESENIA GONZALEZ**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[52\]](#)

MUOI CHEA/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

#### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$9,059.77.

The debtor's opposition states that the debtor will file a motion to modify plan. No modified plan has been filed. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$9,059.77.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency.



The court is unable to deny the motion given the outstanding delinquency.

#### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$9,059.77. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

23. [17-25038](#)-A-13     **IN RE: ANDRES/CARISSA TOVAR**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[40\]](#)

NIKKI FARRIS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

#### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

A trustee's motion to dismiss a chapter 13 case is governed by Rule 9014. Fed. R. Bankr. P. 9014(a)-(b). A trustee's motion to dismiss a chapter 13 must be served on the debtor and other entities as required by Rule 9013 of the Federal Rules of Bankruptcy Procedure.

Here, the trustee's motion to dismiss was served to the debtor at the incorrect address. The debtor's correct zip code is 95938. The certificate of service states the debtor's zip code is 95988, ECF No. 42. This motion will be denied without prejudice.

24. [20-24242](#)-A-13     **IN RE: ROBERT MAC BRIDE**  
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE  
2-25-2021    [\[56\]](#)

RESPONSIVE PLEADING

**No Ruling**

25. [20-24242](#)-A-13     **IN RE: ROBERT MAC BRIDE**  
[RSM-4](#)

MOTION TO CONFIRM PLAN  
5-28-2021    [\[91\]](#)

ROBERT MAC BRIDE/ATTY. FOR MV.  
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.

**11 U.S.C. § 1325(a)(6)**

A chapter 13 debtor must file a plan that is feasible and must show ability to comply with its terms. Here the debtor is delinquent \$4,187.48 under the proposed plan. The debtor therefore failed to show feasibility or ability to comply with the terms of the plan.

**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 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, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

26. [21-21742](#)-A-13     **IN RE: ISAC/LORENA ALVAREZ**  
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A.  
6-21-2021    [\[19\]](#)

JENNIFER LEE/ATTY. FOR DBT.  
WENDY LOCKE/ATTY. FOR MV.

### **Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

### **11 U.S.C. § 1325(a)(6)**

11 U.S.C. § 1325(a)(6) requires that a chapter 13 plan is feasible, and that the debtor is able to comply with its terms. The debtor and a seller entered into a Retail Installment Sale Contract for the purchase of a vehicle. The seller assigned and transferred the contract to the secured creditor. The title was perfected. The debtor subsequently filed this bankruptcy case and placed the creditor in Class 2(B), proposing to reduce the secured value of the vehicle to \$37,175.00 to be paid at 4% interest, ECF No. 3. The creditor filed a proof of claim stating secured amount of \$46,350.72, Claim No. 1-1. The debtors have failed to file a motion to value collateral against the creditor to date. The creditor objects to the plan's treatment of its secured claim. The debtors failed to show feasibility of the plan thus far. The court will sustain the objection under § 1325(a)(6).

**TILL V. SCS CREDIT CORP.**

The plan's interest rate on a secured claim should be evaluated under the principles established in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). The court in *Till* held that the "prime-plus or formula rate best comports with the purposes of the Bankruptcy Code." *Till*, 541 U.S. at 480.

The *Till* Court found that "[i]t is sufficient for our purposes to note that, under 11 U.S.C. § 1325(a)(6), a court may not approve a plan unless, after considering all creditors' objections and receiving the advice of the trustee, the judge is persuaded that 'the debtor will be able to make all payments under the plan and to comply with the plan.' Together with the cramdown provision, this requirement obligates the court to select a rate high enough to compensate the creditor for its risk but not so high as to doom the plan. If the court determines that the likelihood of default is so high as to necessitate an 'eye-popping' interest rate, the plan probably should not be confirmed." *Id.* (citations omitted).

"The appropriate size of that risk adjustment depends, of course, on such factors as the circumstances of the estate, the nature of the security, and the duration and feasibility of the reorganization plan." *Id.* at 479. Without deciding the issue of the proper scale of the risk adjustment, the plurality opinion noted that other courts have generally approved upward adjustments of 1% to 3% to the interest rate. See *id.* at 480.

Here, the plan provides for an interest rate of 4% on the objecting creditor's class 2 secured claim. The court takes judicial notice of the 3.25% prime rate of interest as published in a leading newspaper. *Bonds, Rates & Credit Markets: Consumer Money Rates*, Wall St. J., July 14, 2021, [http://online.wsj.com/mdc/public/page/mdc\\_bonds.html](http://online.wsj.com/mdc/public/page/mdc_bonds.html). Fed. R. Bankr. P. 201(b)(2).

It is the debtor's burden to show that the plan complies with § 1325(a). The appropriate interest rate should be about 1% to 3% above the current prime rate (3.25%) given the nature of the security, the risk of default, and the lack of evidence submitted by the creditor that would warrant upward adjustment. As a consequence, the debtor has not sufficiently shown that the plan's proposed interest rate complies with *Till* and § 1325(a)(5)'s present value requirement.

**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.

Wells Fargo Bank, N.A.'s objection to confirmation has been presented to the court. Having considered the objection,

oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

27. [21-21742](#)-A-13     **IN RE: ISAC/LORENA ALVAREZ**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK  
6-21-2021    [[15](#)]

JENNIFER LEE/ATTY. FOR DBT.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

### **11 U.S.C. § 1325(a)(6)**

11 U.S.C. § 1325(a)(6) requires that a chapter 13 plan is feasible, and that the debtor is able to comply with its terms.

### Class 2(B)

The debtor and a seller entered into a Retail Installment Sale Contract for the purchase of a vehicle. The seller assigned and transferred the contract to the secured creditor. The title was perfected. The debtor subsequently filed this bankruptcy case and placed the creditor in Class 2(B), proposing to reduce the secured value of the vehicle to \$37,175.00 to be paid at 4% interest, ECF No. 3. The creditor filed a proof of claim stating secured amount of \$46,350.72, Claim No. 1-1. The debtors have failed to file a motion to value collateral against the creditor to date. The creditor objects to the plan's treatment of its secured claim.

### Inaccurate plan and Schedules

The Internal Revenue Service has filed Proof of Claim No. 4-1, indicating not all tax returns have been filed and the debtor owes \$35,434.00 in taxes, of which \$18,582.16 is for secured taxes. The debtor admitted at the First Meeting of Creditors, that they operated a restaurant under a corporation entity, which was closed in 2019. The plan does not show any treatment for the IRS's secured claim and Schedule D does not list the IRS as a creditor, ECF No. 1.

Also, Ally Bank has filed Proof of Claim No. 3-1, which shows a secured claim in the amount of \$6,682.21. The plan and the schedules do not account for Ally Bank.

For the foregoing reasons, the debtor hasn't shown plan feasibility or ability to comply with the plan.

### **11 U.S.C. § 521**

The list of documents that a chapter 13 debtor must surrender to the trustee is long. At a minimum it includes (1) pay advices for the 60 days prior to the petition, 11 U.S.C. § 521(a)(1)(B)(iv), Fed. R. Bankr. P. 1007(b)(1)(E); (2) a copy of the debtor's most recent federal income tax return (or a transcript thereof), 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3); (3) a photographic identification and proof of social security number, Fed. R. Bankr. P. 4002(b)(1); (4) evidence of "current monthly income," such as a post-petition pay stub, Fed. R. Bankr. P. 4002(b)(2)(A); (5) documentation of monthly expenses claimed under §§ 707(b)(2)(A), (B), 1325(b)(3); and (6) bank and investment account statements that reflect the balance on the date of the petition, Fed. R. Bankr. 4002(b)(2)(B). Pay stubs and tax returns are due to the trustee at least 7 days prior to the meeting of creditors. Fed. R. Bankr. P. 1007(b)(1)(E), 4002(b)(3). The remainder of these documents must be provided no later than the meeting of creditors. Fed. R. Bankr. 4002(b).

But the statutorily required documents do not define the outer limits of documentation debtor's duties. The chapter 13 trustee has discretion to ask for far more documentation. Section 521 requires that the debtor ". . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title." 11 U.S.C. § 521(a)(3) (emphasis added). As one commentator noted, "Cooperate" is a broad term, indeed, and must be construed that whenever the trustee calls upon the debtor for assistance in the performance of his duties, the debtor is required to respond, at least if the request is not unreasonable." 4 *Collier on Bankruptcy* ¶ 521.15 (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev. 2018). Paramount among the chapter 13 trustee's duties is to "appear and be heard" regarding plan confirmation. 11 U.S.C. §§ 1302(b)(2)(B), 1322 (mandatory and optional plan contents), 1325 (elements for plan confirmation). Neither the code, nor the rules, prescribe a deadline for that cooperation, and this court finds that the debtor is entitled to a reasonable time to respond to the trustee's inquiries and requests for documentation.

Section 521(a), (e) & Rule 4002(b) Documents

The debtor has not provided the trustee the with 2 years of tax returns required under § 1325(a)(9). Moreover, the debtor has not provided 60 day pay advices to the trustee at least 7 days prior to the meeting of creditors. The debtor also failed to provide 6 months of profit and loss statements, 6 months of bank statements, proof of license and insurance or written statements that no such documentation exists.

**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 chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

28. [17-24944](#)-A-13     **IN RE: MAURICE TALTON**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [[62](#)]

DAVID CUSICK/ATTY. FOR MV.

**Final Ruling**

Since the trustee requested this motion to be dropped by the court, ECF No. 66, the court will drop this matter from the calendar as moot.

29. [17-23945](#)-A-13     **IN RE: DEMAR RICHARDSON**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[94\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f)(1); debtor's non-opposition filed

**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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$11,287.89.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.



30. [17-27445](#)-A-13     **IN RE: BRIAN/WENDY NICKLE**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[89\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$9,900.00.

The debtor's opposition states that the debtor will file a modified plan. None has been filed. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$9,900.00.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$9,900.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

31. [20-22445](#)-A-13     **IN RE: GREG/TERESA REYNOLDS**  
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE  
5-3-2021    [\[55\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

32. [20-22445](#)-A-13     **IN RE: GREG/TERESA REYNOLDS**  
[RLC-2](#)

MOTION TO CONFIRM PLAN  
6-3-2021    [\[61\]](#)

STEPHEN REYNOLDS/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.

**11 U.S.C. § 1325(a)(6)**

A chapter 13 debtor must file a plan that is feasible and must show ability to comply with its terms. Here the debtor is delinquent \$1,204.54 under the proposed plan. The debtor therefore failed to show feasibility or ability to comply with the terms of the plan.

**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 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, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

33. [18-23646](#)-A-13     **IN RE: JENNIFER DOW**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[48\]](#)

MICHAEL BENAVIDES/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,439.72.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

34. [19-21346](#)-A-13     **IN RE: CHARLES KOCH**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-16-2021    [[67](#)]

MICHAEL HAYS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$908.00.

The debtor's opposition states that the debtor will file a modified plan to address the delinquency. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$908.00.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$908.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

35. [21-20846](#)-A-13     **IN RE: ANTOINETTE EDWARDS**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-14-2021    [\[53\]](#)

PETER MACALUSO/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).

### **DELINQUENCY**

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the proposed plan. Payments are delinquent in the amount of \$4,540.00.

### **11 U.S.C. § 1307(c)(1)**

The debtor has failed to confirm a plan within a reasonable time. The case has been pending for approximately 4.5 months, yet a plan has not been confirmed. This constitutes unreasonable delay by the debtor that is prejudicial to creditors. The court will dismiss the case.

### **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. The debtor has failed to make all payments due under the proposed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

36. [21-20846](#)-A-13     **IN RE: ANTOINETTE EDWARDS**  
[GB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-16-2021    [\[57\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
ERICA LOFTIS/ATTY. FOR MV.  
U.S. BANK TRUST, N.A.; TRUSTEE NON-OPPOSITION VS.

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); trustee's non-opposition filed

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 212 Clearbrook Ct, Suisun City, CA 94585

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).

### **STAY RELIEF**

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1).

The evidence demonstrates that the debtors no longer own the property. Redwood Holdings acquired title to the Property at a valid foreclosure sale on February 10, 2021. The Trustee's Deed on Sale is dated February 26 2021, which is prior to the filing of this bankruptcy (March 10, 2021). Exhibit 4, ECF No. 60. Therefore, the debtors had no ownership interest in the property when the bankruptcy was filed. Also, the debtors are \$4,540.00 delinquent in plan payments. The movant is included in Debtor's pending plan as Class 4, ECF No. 4, and has filed Proof of Claim 2-1 in the secured amount of \$334,881.13 and \$69,233.43 in arrears. The Trustee has not disbursed any funds, to date. Also, the real property was the subject matter of a prior motion for relief by Redwood Holdings, LLC, ECF No. 27, which was granted, ECF No. 52. There is cause to authorize stay relief.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

### **DOCKET CONTROL NUMBER**

The docket control number given for this matter violates the court's Local Rules, LBR 9014-1(c), regarding proper use of docket control

numbers. The creditor used the same docket control number GB-1 as they used for a previously-filed Objection to Confirmation of Plan, ECF No. 24. When using a docket control number, a party must use both letters (usually initials of the attorney for the movant) and a number. The numerical portion of the docket control number must be "the number that is one number higher than the number of motions previously filed by said attorney" in that particular case. LBR 9014-1(c)(3). Thus, a party may not use the same docket control number on separate matters filed in the same case.

#### **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.

U.S. Bank Trust N.A.'s motion for relief from the automatic stay 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 automatic stay is vacated with respect to the property described in the motion, commonly known as 212 Clearbrook Ct, Suisun City, CA 94585, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

37. [19-26252](#)-A-13     **IN RE: PETER/ALISON BIPPART**  
[DPC-1](#)

MOTION TO DISMISS CASE  
5-26-2021    [\[28\]](#)

ERIC SCHWAB/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f)(1); debtor's non-opposition filed

**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 a required tax return (for the 2019 and, if filed, 2020 tax years) 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.



38. [21-21652](#)-A-13      **IN RE: MARIA PAGTAKHAN**

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK, N.A.  
6-25-2021    [\[24\]](#)

GEOFF WIGGS/ATTY. FOR DBT.  
DIANE WEIFENBACH/ATTY. FOR MV.

### **Tentative Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Overruled

**Order:** Civil minute order

No responding party is required to file written opposition to the motion; opposition may be presented at the hearing. LBR 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

Section 3.02 of the plan provides that the proof of claim, not the plan, controls the amount and classification of the creditor's claim unless the claim amount or classification is otherwise altered by the court after ruling on one of the three types of matters listed in the section. This means that the plan's understatement of the pre-petition arrears on a Class 1 claim does not reduce the amount of the arrears reflected in a filed proof of claim.

The objection will be overruled because any understatement of the prepetition arrears in the plan does not alter or affect the creditor's rights.

### **DOCKET CONTROL NUMBER**

The lack of a docket control number on the papers filed in this matter violates the court's local rules. LBR 9014-1(c)(1) mandates the use of docket control numbers to be used on each document filed with the bankruptcy court in this district, including proofs of service.

### **CIVIL MINUTE ORDER**

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

Having considered the present objection to confirmation 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 objection is overruled.

39. [21-21652](#)-A-13     **IN RE: MARIA PAGTAKHAN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
6-23-2021    [\[20\]](#)

GEOFF WIGGS/ATTY. FOR DBT.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing, the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

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 has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

### **11 U.S.C. § 1322(d)**

Absent application of the CARES Act, 11 U.S.C. § 1329(d) (which is not applicable here), a chapter 13 plan may not exceed five years, 11 U.S.C. § 1322(d). Here the proposed future payments of \$4,500.00 and monthly dividend of \$1,642.44 to the secured creditor Rushmore Loan Management for arrears cause the plan to run 69 months.

### **11 U.S.C. § 1325(a)(6)**

Under 11 U.S.C. § 1325(a)(6), a chapter 13 plan must be feasible, and the debtor must show ability to comply with its terms.

### Attorney Fees

A \$0 monthly disbursement amount is called for to the debtor's attorney, Plan § 3.06, ECF No. 13. The boxes in Section 3.05 and 3.06 in the plan indicate that the debtor's attorney is accepting a fee of \$4,000.00 and accepted \$3,000.00 prior to filing the case and \$1,000.00 to be paid through the plan. Paying \$0 per month will not pay these fees.

#### Inaccurate Schedule H

The debtor failed to identify her husband Reggie Pagtakhan as a codebtor for a real property on Schedule H, ECF No. 12. The debtor admitted at the Meeting of Creditors that the real property belongs to her and to her husband Reggie Pagtakhan.

#### Inaccurate Statement of Financial Affairs

The Statement of Financial Affairs, ECF No. 12, only lists the debtor's income for the current year. The debtor failed to report income received in the past two years, though Schedule I states she has been employed for 23 years.

#### Ability to Pay

The debtor indicated in Schedule J, ECF No. 12, that her net income is \$3,528.40 per month. Therefore, the debtor failed to show how funding a plan that calls for \$4,500.00 per month for 60 months is feasible, ECF No. 13. The debtor also identified a monthly mortgage payment of \$3,764.56 and a monthly car payment of \$500.00 (Class 2), and that her husband has credit card debt and is making monthly payments not listed on Schedule J.

For the foregoing reasons, the debtor failed to show plan feasibility or ability to comply with its terms.

#### **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 chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

40. [18-27654](#)-A-13     **IN RE: JASON/MOLLY ZYSMAN**  
[DPC-2](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[65\]](#)

DAVID FOYIL/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Final Ruling**

Since the trustee requested this motion to be dropped by the court, ECF No. 81, the court will drop this matter from the calendar as moot.

41. [18-24855](#)-A-13     **IN RE: ELIZABETH PISANO**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[20\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$6,800.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

42. [18-27055](#)-A-13     **IN RE: JEFFREY/LISA PURCELL**  
[MRL-3](#)

MOTION TO SELL  
6-30-2021    [\[64\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Sell Property [Real Property]

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

**Disposition:** Granted

**Order:** Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

**Property:** 1992 Village Drive, Ione, CA 95640

**Buyer:** Anna Roa for Amparo Properties

**Sale Price:** \$43,000.00 (\$1,505.00 to be paid to Real Estate Agent)

**Sale Type:** Private sale subject to overbid opportunity

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 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).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation. Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

43. [18-23959](#)-A-13     **IN RE: YOLANDA DORMAN**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[34\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,889.71.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

44. [21-21060](#)-A-13     **IN RE: CATHERINE EFHAN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
6-28-2021    [\[32\]](#)

THOMAS AMBERG/ATTY. FOR DBT.  
6/29/21 INSTALLMENT FEE PAID \$78

#### **Final Ruling**

The installment having been paid, the order to show cause is discharged. The case will remain pending.

45. [16-20763](#)-A-13     **IN RE: LAWRENCE/CHYANNE MICALLEF**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-16-2021    [\[177\]](#)

MARK WOLFF/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

#### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$28,499.64.

The debtor's opposition states that the debtors do have ability to make plan payments and will be current before the hearing. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$28,499.64.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

#### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$28,499.64. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

46. [20-21471](#)-A-13     **IN RE: JOHN STAHLECKER**  
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE  
5-5-2021    [\[84\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **No Ruling**

47. [20-21471](#)-A-13     **IN RE: JOHN STAHLECKER**  
[PSB-4](#)

MOTION TO MODIFY PLAN  
6-7-2021    [\[91\]](#)

PAULDEEP BAINS/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.

#### **11 U.S.C. § 1325(a)(6)**

Under 11 U.S.C. § 1325(a)(6), a chapter 13 plan must be feasible, and the debtor must show ability to comply with its terms.



### Delinquency

The debtor is delinquent \$3,943.00. The debtor therefore hasn't shown ability to make plan payments.

### Class 1 Creditor Cenlar FSB

Under the previously confirmed plan, due to the debtor's failure to make plan payments, the trustee was not able to distribute funds to Class 1 creditor Cenlar FSB in the amount of \$12,344.31. The unpaid installments are as follows: \$1,762.53 for the months September, October and December 2020, and February 2021; and \$1,764.73 for the months March through May 2021.

While the modified plan attempts to specify a cure of the post-petition arrearage, it does not specify which months were missed and what mortgage payments were for each month. The trustee is unable to fully pay all arrears and therefore cannot assess feasibility of the plan.

### **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 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, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

48. [20-25073](#)-A-13     **IN RE: MARGARET FELIX**  
[MS-1](#)

MOTION TO MODIFY PLAN  
6-10-2021    [\[22\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **Final Ruling**

**Motion:** Modification of a Chapter 13 Plan

**Disposition:** Denied without prejudice

**Order:** Civil minute order

All creditors and parties in interest have not received the notice required by Federal Rules of Bankruptcy Procedure 3015(g). The certificate of service shows that Upright Law has not received notice.

For matters requiring notice to all creditors and parties in interest, the court prefers that a current copy of the ECF master mailing list, accessible through PACER, be attached to the certificate of service to indicate that notice has been transmitted to all creditors and parties in interest. The copy of the master mailing list should indicate a date near in time to the date of service of the notice.

49. [18-24876](#)-A-13     **IN RE: JUAN GRANADOZ**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[22\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

#### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$5,585.00.

#### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

50. [21-21279](#)-A-13     **IN RE: SUSAN STRAUB**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.  
CUSICK  
5-20-2021    [\[15\]](#)

MARY TERRANELLA/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

51. [21-21779](#)-A-13     **IN RE: NANCY BUONLAMPERTI**  
[DPC-1](#)

OBJECTION TO DISCHARGE BY DAVID P. CUSICK  
6-21-2021    [\[13\]](#)

DAVID RITZINGER/ATTY. FOR DBT.

### **Final Ruling**

**Objection:** Objection to Discharge

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

**Disposition:** Sustained

**Order:** Civil Minute Order

Unopposed objections are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this objection. 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).

### **11 U.S.C. § 1328(f) (1)**

11 U.S.C. § 1328(f)(1) states that "a court shall not grant a discharge of all debts provided for in the plan...if the debtor has received a discharge in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter."

Here the debtor filed this chapter 13 case in May 2021. However, on December 4, 2017, the debtor received a discharge under 11 U.S.C. § 727 in a case filed under Chapter 7. Therefore, the court will sustain the trustee's objection to discharge under § 1328(f)(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 objection to discharge 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 objection,

IT IS ORDERED that the objection is sustained.

52. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
6-21-2021    [\[29\]](#)

**Final Ruling**

This case having been dismissed (Item 54), the court will drop this matter from the calendar as moot.

53. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[DPC-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
6-21-2021    [\[33\]](#)

**Final Ruling**

This case having been dismissed (Item 54), the court will drop this matter from the calendar as moot.

54. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-21-2021    [\[37\]](#)

**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).

**11 U.S.C. § 521**

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

### Credit Counseling Certificate

The debtor has failed to file a certificate of completion from an approved nonprofit budget and credit counseling agency. The debtor has failed to comply with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C § 109(h).

### Business Documents

The debtor owns and operates Perfect Pixel. The trustee requested business documents, including income tax returns for the two-year period prior to filing, bank account statements for the six month period prior to filing of the petition, proof of all required insurance and licenses. To date, the debtor failed to provide these items to the trustee and therefore failed to comply with 11 U.S.C. § 521.

### **11 U.S.C. § 341**

The debtor has failed to appear at a § 341 meeting of creditors held on June 17, 2021. See 11 U.S.C. §§ 341, 343. The continued meeting is on August 5, 2021, at 1:00 p.m.

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.

55. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[HDP-1](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY  
6-17-2021    [\[24\]](#)

HENRY PALOCI/ATTY. FOR MV.  
TRUSTEE NON-OPPOSITION

### **Tentative Ruling**

**Motion:** Confirm Absence of Automatic Stay

**Notice:** LBR 9014-1(f)(1); trustee's non-opposition filed

**Disposition:** Granted

**Order:** Civil minute order

**Previous Case:** 21-21376 (Chapter 13)

-Date filed: April 15, 2021

-Date dismissed: May 3, 2021

**Present Case:**

-Date filed: May 6, 2021

-Deadline for hearing on motion to extend stay: June 7, 2021

-Motion to extend stay: not filed

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

### **DEFAULT OF RESPONDENT**

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).

### **CONFIRMATION OF THE STAY'S TERMINATION**

If a debtor who files a petition has had one bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay terminates with respect to the debtor on the 30th day after the filing of the later case, unless the stay is extended. 11 U.S.C. § 362(c)(3)(A). Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See *id.* § 362(c)(3)(B). And a party in interest may request an order confirming that no stay is in effect. *Id.* § 362(j) (authorizing the court to issue orders confirming the termination of the automatic stay). In this case, the debtor has had 1 case pending within the preceding 1-year period that was dismissed. More

than 30 days have passed since the petition date. The stay has terminated.

#### **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.

2<sup>nd</sup> Chance Mortgages Inc.'s motion to confirm the termination of the stay has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court hereby confirms that the automatic stay is not in effect in this case.

56. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[HDP-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY 2ND CHANCE MORTGAGES  
INC.  
6-17-2021    [[28](#)]

HENRY PALOCI/ATTY. FOR MV.

#### **Final Ruling**

This case having been dismissed (Item 54), the court will drop this matter from the calendar as moot.

57. [21-21682](#)-A-13     **IN RE: CHRISTOPHER WONG**  
[KAZ-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY METROPOLITAN LIFE  
INSURANCE COMPANY  
6-15-2021    [[20](#)]

KRISTIN ZILBERSTEIN/ATTY. FOR MV.

#### **Final Ruling**

This case having been dismissed (Item 54), the court will drop this matter from the calendar as moot.



58. [20-20084](#)-A-13     **IN RE: BERNADETTE TEDING**  
[RJ-5](#)

MOTION TO MODIFY PLAN  
6-8-2021    [\[100\]](#)

RICHARD JARE/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Modify Chapter 13 Plan

**Notice:** LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

**Disposition:** Denied

**Order:** Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

Chapter 13 plan modification 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. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

### **11 U.S.C. § 1325(a)(6)**

Under 11 U.S.C. § 1325(a)(6), a chapter 13 plan must be feasible, and the debtor must show ability to comply with its terms.

### Class 1 Creditor Select Portfolio Servicing

Under the previously confirmed plan, due to the debtor's failure to make plan payments, the trustee was not able to distribute funds to Class 1 creditor Select Portfolio Servicing. The unpaid installments are as follows: \$6,008.29 for the months November 2020 and May 2021.

While the modified plan attempts to specify a cure of the post-petition arrearage, it includes an incorrect post-petition arrearage amount of \$7,518.79 and does not specify which months were missed. The trustee is unable to fully pay all arrears and therefore cannot assess feasibility of the plan.

### Retirement Fund Loans

Supplemental Schedules I and J, ECF No. 103, reflect required repayments of retirement fund loans for the debtor of \$734.67 and \$838.74 for the non-filing spouse. In the previously filed Schedules I and J, ECF No. 28, the non-filing spouse's amount was \$435.75. The plan pays 0% to unsecured creditors. The debtor has not explained

the increase and has not offered to increase plan payments where the loans are paid in full.

Also, the plan proposes a step-up payment to \$7,070.00, but the declaration states this increase is afforded by the debtor's income being restored, the country returning to normal and an adult child becoming self-sufficient and contributing to the household, ECF No. 104. These events are too speculative to be considered for when determining feasibility of the plan.

#### **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 modify 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, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies modification of the chapter 13 plan.

59. [20-20084](#)-A-13     **IN RE: BERNADETTE TEDING**  
[RPZ-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-18-2021    [\[83\]](#)

RICHARD JARE/ATTY. FOR DBT.  
ROBERT ZAHRADKA/ATTY. FOR MV.  
DEUTSCHE BANK NATIONAL TRUST COMPANY VS.; RESPONSIVE PLEADING

**No Ruling**

60. [17-24490](#)-A-13     **IN RE: RAYMOND/ELIZABETH CAMPBELL**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [[109](#)]

LUCAS GARCIA/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$6,045.01.

The debtor's opposition states that the debtor will file a modified plan to become current. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$6,045.01.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$6,045.01. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

61. [18-20390](#)-A-13     **IN RE: THOMAS/SAMMY BOONE**  
[PLC-7](#)

MOTION TO SELL  
7-6-2021    [\[109\]](#)

PETER CIANCHETTA/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Sell Property [Real Property]

**Notice:** LBR 9014-1(f)(2); trustee's non-opposition filed

**Disposition:** Granted

**Order:** Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

**Property:** 892 Woodside Lane, E Unit 7, Sacramento, CA 95825

**Buyer:** Eshan Taghavi

**Sale Price:** \$177,000.00 (sales commission 5% to be split equally between buyer's and seller's realtors)

**Sale Type:** Private sale subject to overbid opportunity

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 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).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation. Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

62. [18-20390](#)-A-13     **IN RE: THOMAS/SAMMY BOONE**  
[PLC-8](#)

MOTION TO EMPLOY OSCAR TERRAZAS AS REALTOR(S)  
7-6-2021    [\[104\]](#)

PETER CIANCHETTA/ATTY. FOR DBT.

### **Tentative Ruling**

**Application:** Approval of Employment

**Notice:** LBR 9014-1(f)(2); trustee's non-opposition filed

**Disposition:** Approved

**Order:** Prepared by applicant pursuant to the instructions below

**Professional:** Oscar Terrazas (real estate broker)

**Proposed compensation:** 5% commission of sale, split equally with buyer's realtor.

Unopposed applications 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 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).

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment and the proposed compensation.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

63. [17-25195](#)-A-13     **IN RE: JUSTINO SANCHEZ**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-16-2021    [[135](#)]

RICHARD JARE/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.

### **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).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$15,420.00.

### **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. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

64. [19-22396](#)-A-13     **IN RE: RUMMY SANDHU**  
[DPC-3](#)

MOTION TO DISMISS CASE  
6-21-2021    [[125](#)]

PETER MACALUSO/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$6,123.21.

The debtor's opposition states that the debtor will be current prior to the hearing on this motion. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency in the amount of \$6,123.21.

The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **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 considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$6,123.21. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

65. [18-27698](#)-A-13     **IN RE: ISAAC/SONIA PALACIOS**  
[DPC-1](#)

MOTION TO DISMISS CASE  
6-21-2021    [[31](#)]

PAULDEEP BAINS/ATTY. FOR DBT.  
DAVID CUSICK/ATTY. FOR MV.  
RESPONSIVE PLEADING

**Final Ruling**

Since the trustee requested the court to drop this motion, filed July 14, 2021, the court will drop this motion from the calendar as moot.