



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 6, 2024 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

August 6, 2024 at 1:30 p.m.

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1. [24-21824](#)-C-13 DEIDRA GRISWOLD CONTINUED MOTION TO VALUE
[GEL](#)-1 Gabriel Liberman COLLATERAL OF CONSUMER
PORTFOLIO SERVICES FINANCIAL,
INC.
6-25-24 [[16](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 20.

The Motion to Value is xxxxxxxx.

The debtor filed this Motion seeking to value the portion of Consumer Portfolio Services Financial Inc.'s ("Creditor") claim secured by the debtor's property a 2021 Jeep Renegade (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$6,050.00. Declaration, Dkt. 19. However, debtor's motion and schedules indicate a value of \$16,660.00. Dkts. 1 & 16.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on January 24, 2021, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is xxxxxxxx. There are no senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be xxxxxxxx. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

August 6, 2024 at 1:30 p.m.

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is **xxxxxxx**, and the claim of Consumer Portfolio Services Financial Inc. ("Creditor") secured by property commonly known as 2021 Jeep Renegade (the "Property") is determined to be a secured claim in the amount of **xxxxxxx**, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

2. [24-21824](#)-C-13 DEIDRA GRISWOLD
[LGT](#)-1 Gabriel Liberman

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
6-20-24 [[12](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 27 days' notice was provided. Dkt. 15.

The Objection to Confirmation of Plan is sustained.

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

1. Plan is not feasible until the motion to value collateral is resolved.

DISCUSSION

The plan proposes valuing the secured claim of Consumer Portfolio Services Financial Inc. Before the court enters an order valuing that secured claim, the plan's feasibility is uncertain.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 44.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor is \$355.01 delinquent in plan payments, which is supported by declaration. Dkt. 43.

Failure to maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Lilian G. Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

Final Ruling: No appearance at the August 6, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 54 days' notice was provided. Dkt. 94.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtors, Sidney Moore and Angela Moore, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 91) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

5. [24-22039](#)-C-13 RONALD HAPPE
[LGT](#)-1 Mark Shmorgon

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
7-2-24 [[17](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 35 days' notice was provided. Dkt. 20.

The Objection to Confirmation of Plan is sustained.

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

1. The Meeting of Creditors has not been concluded; and
2. The plan proposes paying approximately \$40,537.00 to general unsecured creditors, which is less than the 41.56% that the plan requires.

DISCUSSION

A review of the docket shows that the Meeting of Creditors took place on July 11, 2024, the debtor appeared and the Meeting has been concluded as to the debtors. Therefore, this is no longer an issue for objection.

The plan mathematically proposes to pay \$40,537.00 to general unsecured creditors, which is less than the proposed 41.56% payment.

The debtor has not demonstrated the plan is feasible because the amended schedules E and F claims are greater than initially scheduled. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

6. [24-22039](#)-C-13 RONALD HAPPE
[LGT](#)-1 Mark Shmorgon

OBJECTION TO CONFIRMATION OF
PLAN BY ELIZABETH KOO AND SHAN
GUO
7-3-24 [[21](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 22.

The Objection to Confirmation of Plan is xxxxxxxxxx

Creditors, Elizabeth Koo and Shan Guo ("Creditors") opposes confirmation of the Chapter 13 plan on the basis that:

1. The Meeting of Creditors has not yet concluded;
2. The debtor has failed to provided business documents for Main Street Associates; and
3. Debtor failed to disclose Creditors nondischargeable judgment.

DISCUSSION

A review of the docket shows that the Meeting of Creditors took place on July 11, 2024, the debtor appeared and the Meeting has been concluded as to the debtors. Therefore, this is no longer an issue for objection.

The debtor has amended his Schedules E and F that does show the stipulated judgment as an unsecured debt owing to the Creditors.

It appears there are no other issues for objection.

At the hearing xxxxxxxxxx.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Elizabeth Koo and Shan Guo, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is xxxxxxxxxx

7. [24-22052](#)-C-13 STEPHEN FAVIS
[CCR](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY O-FILM GLOBAL (HK)
TRADING LIMITED
7-5-24 [[18](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 22.

The Objection to Confirmation of Plan is sustained.

Creditor, O-Film Global (HK) Trading Limited ("Creditor"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The debtor failed to appear at the Meeting of Creditors;
2. Debtor does not meet the venue requirements;
3. The case serves no valid bankruptcy purpose; and
4. The case, and plan, have not been filed in good faith.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on July 15. Dkt. 23. Debtor asserts that O-Film Global (HK) Trading Limited is not a legitimate creditor in this case. Debtor further asserts that Creditor has not provided documentation to substantiate its claim.

DISCUSSION

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Appearance is mandatory. See 11 U.S.C. § 343. Attempting to confirm a plan while failing to appear and be questioned by the Chapter 13 Trustee and any creditors who appear represents a failure to cooperate. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by O-Film Global (HK) Trading Limited, having been presented to the

court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

8. [24-22054](#)-C-13 WILSON PHAM AND HANG DINH OBJECTION TO CONFIRMATION OF
[CAS](#)-1 Mark Wolff PLAN BY BMO BANK, N.A.
6-24-24 [[19](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 22.

The Objection to Confirmation of Plan is sustained.

Creditor, BMO Bank N.A. ("Creditor"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to pay the applicable interest rate on Creditor's claim.

DISCUSSION

Creditor opposes confirmation on the basis that the plan proposes paying its claim at five percent (5%) interest. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. See *In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); see also *Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. See *Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Creditor has stated that it is willing to accept the prime rate plus 1.00%, which the court views as an acceptable risk adjustment amount. Therefore, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 8.50%, plus a 1.00% risk adjustment, for a 9.50% interest rate.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by BMO

Bank N.A., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

9. [24-22054](#)-C-13 WILSON PHAM AND HANG DINH OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Mark Wolff PLAN BY LILIAN G. TSANG
7-3-24 [[27](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 30.

The Objection to Confirmation of Plan is sustained.

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

1. The plan proposes plan payments that are less than required;
2. The plan payment on Class 2 Claim of BMO Bank N.A. is less than amount needed to pay the claim in full within the 60 month plan term;
3. Debtors claim a higher exemption amount on assets than their current market values; and
4. Trustee requests copies of all future business and personal income tax returns.

DISCUSSION

The plan mathematically requires a payment of \$1,588.00 per month, which is greater than the proposed \$1,549.00 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the correct interest rate as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

10. [24-21965](#)-C-13 GREGOIRE TONOUKOUIN
[DVW](#)-1 Thomas Amberg

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR IN REM RELIEF
7-19-24 [[22](#)]

U.S. BANK, N.A. VS.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 27.

The Motion for Relief from the Automatic Stay is xxxxxxxxxx

U.S. Bank, N.A. as Legal Title Trustee for Truman 2016 SC6 Title Trust ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's real property commonly known as 8630 Copper Canyon Way, Antelope, CA (the "Property").

Movant argues that the automatic stay terminated 30 days after the filing of the petition pursuant to 11 U.S.C. § 362(c)(3) because this is the second case the debtor has filed within 1 year.

Movant also argues cause exists pursuant to 11 U.S.C. § 362(d)(4) because the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved multiple bankruptcy filings affecting the Property.

DISCUSSION

Upon review of the record, the court finds that the debtor did previously file a case on September 7, 2023, which was dismissed on April 25, 2024. Therefore, this is the debtor's second case within 1 year and there has been no request to extend the automatic stay.

As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). Therefore, as of June 6, 2024, the automatic stay as it applies to Debtor was terminated by operation of law.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court, if applicable in this case.

At the hearing **xxxxxxxxxx**

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by U.S. Bank, N.A. as Legal Title Trustee for Truman 2016 SC6 Title Trust ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that **xxxxxxxxxx**

11. [18-27566](#)-C-13 MARGUERITE THOMAS
[LGT](#)-1 Candace Brooks

MOTION TO DISMISS CASE
6-20-24 [[44](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 47.

The Motion to Dismiss is ~~xxxxxxx~~

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor is \$6,045.00 delinquent in plan payments, which is supported by declaration. Dkt. 46.

The debtor filed an opposition on July 22, 2024, asserting that she mistakenly believed she had made all plan payments. Debtor represents she has made a payment in the amount of \$3,022.50 to the Chapter 13 Trustee on July 1, 2024, and will make another payment of \$3,022.50 on August 1, 2024.

At the hearing ~~xxxxxxxxxx~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are
stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee, Lilian
G. Tsang, having been presented to the court,
and upon review of the pleadings, evidence,
arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Motion to
Dismiss is ~~xxxxxxx~~

12. [24-21771](#)-C-13 JACOB MAAG
[DVW](#)-1 Mark Shmorgon

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-19-24 [[23](#)]

21ST MORTGAGE CORPORATION
VS.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 28.

The Motion for Relief from the Automatic Stay is granted.

21st Mortgage Corporation ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's property located at 3501 Bradshaw Rd., Sp#133, Sacramento, CA (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent three postpetition payments. Declaration, Dkt. 26.

DISCUSSION

A review of the dockets shows the Confirmed Chapter 13 Plan provides for Movant's claim as a Class 4. Plan, Dkt. 4; Order, Dkt. 20. The Confirmed Plan states the following with respect the automatic stay and Class 4 claims:

(a) Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; (2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract; and (3) modified to allow the nondebtor party to an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor.

Id.

Based on the plain language of the Plan, the automatic stay was already modified to allow Movant to enforce its rights with respect to the collateral. Therefore, the relief requested by the Motion is moot.

The court recognizes that creditors may need an order specifying the continuing effect and modification of an automatic stay when state recording and filing law come into play, as well as for title insurance purposes.

The Ninth Circuit Court of Appeal has recognized the basic "discretion is the better part of valor" principle when it comes to the automatic stay. Seeking a separate order clearly specifying the scope of the relief granted in the Plan is not inappropriate.

The court grants the Motion, granting relief that under the terms of the confirmed Chapter 13 Plan, Dkt. 4, in this bankruptcy case, "all bankruptcy stays are modified to allow Movant, and its agents and successors, as the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by 21st Mortgage Corporation ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the relief is granted pursuant to the Motion, the court confirming that "all bankruptcy stays are modified to allow [Movant , and its agents and successors, as] the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Confirmed Chapter 13 Plan, Dkt. 4; Order Confirming, Dkt. 20.

13. [24-22185](#)-C-13 JULIE HOOVER
[LGT](#)-1 Mark Shmorgon

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
7-3-24 [[13](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 16.

The Objection to Confirmation of Plan is sustained.

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

1. The Meeting of Creditors has not yet concluded; and
2. The plan payments are less than required.

DISCUSSION

A review of the docket shows that the Meeting of Creditors took place on July 11, 2024, the debtor appeared and the Meeting has been concluded as to the debtor. Therefore, this is no longer an issue for objection.

The plan mathematically requires a payment of \$856.00 per month, which is greater than the proposed \$830.00 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dkt. 294.

The Motion Directing Payment is xxxxxxxxxx.

The Chapter 13 Trustee, Lilian Tsang, ("Trustee") moves for an order directing payment of the balance of funds being held by the Trustee in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case.

Creditor, Jennine C. Banayat, opposes the Trustee's motion to the extent it seeks to return the funds to the debtor. Creditor asserts that 11 U.S.C. § 349(b) reverts the property in the debtor upon dismissal of the case. Further, 11 U.S.C. § 362(c) lifts the automatic stay at the time the case is dismissed and at that point the levy under California Code of Civil Procedure § 699.510 becomes applicable and requires the Trustee to pay the County Sheriff.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

DISCUSSION

At the hearing xxxxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion Directing Payment by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is xxxxxxxxxx

15. [22-2049 2](#)-C-13 GENEROSA DIZON
[MJH](#)-3 Lewis Phon

CONTINUED AMENDED MOTION TO
DIRECT PAYMENT OF DEBTOR FUNDS
HELD BY CHAPTER 13 STANDING
TRUSTEE TO STANISLAUS COUNTY
SHERIFF CIVIL, LEVYING OFFICER
FILE NO. 2024001122, TO THE
BENEFIT OF JENNINE C. BANAYAT,
CREDITOR
4-19-24 [[305](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that only 13 days' notice was provided. Dkt. 299.

The Motion Directing Payment is xxxxxxxxxx.

Creditor, Jennine C Banayat, ("Creditor") moves for an order requiring Chapter 13 Trustee to deliver the balance of undistributed funds in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case to Stanislaus County Sheriff Civil, Levying Officer File No. 2024001122, to the benefit of Jennine C. Banayat, Creditor.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

DISCUSSION

At the hearing xxxxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion Directing Payment by Creditor, Jennine C. Banayat, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is xxxxxxxxxx

Final Ruling: No appearance at the August 6, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 52 days' notice was provided. Dkt. 132.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify is granted.

The debtor filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtor, Cheryl Ann Ryce, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 130) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

17. [24-21697](#)-C-13 LINDA MYRES
[LGT](#)-1 Eric Schwab

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
6-17-24 [[14](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 30 days' notice was provided. Dkt. 17.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), filed a supplemental response since the prior hearing and opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor is delinquent in plan payments;
2. Debtor relies on family support to make plan payments but has not filed declaration attesting to the ability or willingness to support the debtor; and
3. The plan does not fully provide for prepetition mortgage arrears.

DISCUSSION

The debtor appears she may be \$4,250.00 delinquent in plan payments.

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

18. [24-21999](#)-C-13 EVA LEDESMA
[RAS](#)-1 Mikalah Liviakis

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK NATIONAL
ASSOCIATION
7-3-24 [[17](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 19.

The Objection to Confirmation of Plan is sustained.

Creditor, U.S. Bank National Association, As Trustee For Greenpoint Mortgage Funding Trust Mortgage Pass-Through Certificates, Series 2006-AR7, by and through its authorized loan servicing agent, PHH Mortgage ("Creditor"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan does not fully provide for its claim or prepetition mortgage arrears.

DISCUSSION

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by U.S. Bank National Association, As Trustee For Greenpoint Mortgage Funding Trust Mortgage Pass-Through Certificates, Series 2006-AR7, by and through its authorized loan servicing agent, PHH Mortgage, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.