

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

September 12, 2022 at 1:30 p.m.

1.	21-20009 -C-13 PGM -4	CYNTHIA ARIETA Peter Macaluso	MOTION TO SELL AND/OR MOTION TO WAIVE RULE 6004 (H) 8-8-22 [95]
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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 35 days' notice was provided. Dkt. 99.

<p>The Motion to Sell is Granted.</p>
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Debtor, Salena Arieta, successor in interest, filed this Motion pursuant to 11 U.S.C. §§ 363 and 1303 seeking to sell property commonly known as 663 Crosswind Drive, Sacramento, CA ("Property").

The proposed purchaser of the Property is Laurel Sagen, Alcala Properties Inc., and the proposed purchase price is \$320,000.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: xxxxxxxxxxxxxxxxxx.

U.S. Bank Trust National Association, as Trustee of the Chalet Series IV Trust ("Secured Creditor") filed a response indicating it has no opposition so long as its lien will be paid in full directly out of escrow and immediately upon close of sale.

Debtor filed a response agreeing to the Secured Creditor's response to the extent it does not contradict the terms of the plan, which requires a "check swap" with the Chapter 13 Trustee.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the net proceeds of the sale will allow the debtor to pay off all liens and encumbrances on the property, and pay off other creditors, including general unsecured creditors at 100%.

Request for Waiver of Fourteen-Day Stay of Enforcement

September 12, 2022 at 1:30 p.m.

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Federal Rule of Bankruptcy Procedure 6004(h) stays an order granting a motion to sell for fourteen days after the order is entered, unless the court orders otherwise.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 6004(h), and this part of the requested relief is granted.

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

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

The Motion to Sell Property filed by Debtor, successor in interest, Salena Arieta, ("Movant"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 trustee for approval as to form, and if so approved submit the proposed order to the court.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 6004(h) is waived for cause.

Final Ruling: No appearance at the September 12, 2022 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 44 days' notice was provided. Dkt. 45.

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 Plan is granted.

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

No opposition to the Motion has been filed.

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

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

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

The Motion to Modify Plan filed by the debtors, Juan Urbina, Jr. and Ashlie Urbina, 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. 42) 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.

Final Ruling: No appearance at the September 12, 2022 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 42 days' notice was provided. Dkt. 163.

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 Plan is granted.

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

No opposition to the Motion has been filed.

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

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

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

The Motion to Modify Plan filed by the debtors, Brett and Susan Hutchens, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 161) 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.

4. [22-20325](#)-C-13 JOSE HERNANDEZ
[PGM](#)-2 Peter Macaluso

CONTINUED MOTION TO CONFIRM
PLAN
6-24-22 [[56](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 61.

The Motion to Confirm is xxxxxxx

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 58) filed on June 24, 2022.

At the prior hearing on August 10, creditor, Wilmington Savings Fund Society, FSB, As Owner Trustee of the Residential Credit Opportunities Trust opposed confirmation on the following grounds:

1. Debtor fails the best efforts test.

The Chapter 13 Trustee, Russell Greer ("Trustee") agreed with the opposition that debtor appeared to have excess disposable income that would require a higher plan payment.

The debtor responded to the opposition of the creditor and Trustee with the following:

1. The plan payments would be increased in the following month to \$6,400 for the remaining 54 months of the plan.

DISCUSSION

The motion was continued to verify that the increased plan payments were made and that the debtors plan payments met the requirements based upon the debtor's monthly disposable income.

At the hearing xxxxxxxxxxxx

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, Jose Luis Hernandez, 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 xxxxxxx

5. [22-21135](#)-C-13 ROBERT KOEHLER
Eric Schwab

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
7-20-22 [[22](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 27.

The Objection to Claimed Exemptions is xxxxxxxx

Creditors, Drew and Elizabeth Prinz, filed this Objection objecting to the debtor's claimed exemptions pursuant to C.C.C.P § § 704.730 & 704.225 because the debtors cash and savings are not necessary for the debtor's support. The movants further contend that their equitable lien is superior to the debtor's claimed homestead exemption because the debtor used the funds from his client-trust account to pay off the first and second mortgages on the property and to pay state and federal taxes.

Debtor filed an opposition (dkt. 43) representing that the state court specifically found that the movants did not prove fraud in the state court case and a constructive trust was not imposed against the debtor's residence. Debtor further argues that he supports his modest living from social security and what he draws from his savings account.

At the prior hearing on August 25, 2022, the parties agreed that this motion should be continued until appeal in state court is decided.

At the hearing xxxxxxxx

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

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

The Objection to Claimed Exemptions filed by Drew and Elizabeth Prinz having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection is xxxxxxxx

6. [22-21135](#)-C-13 ROBERT KOEHLER
[DNL](#)-3 Eric Schwab

CONTINUED MOTION TO CONVERT
CASE FROM CHAPTER 13 TO CHAPTER
7
7-28-22 [[34](#)]

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 28 days' notice was provided. Dkt. 38.

The Motion to Convert Case to Chapter 7 is ~~xxxxxx~~

This Motion to Convert the Chapter 13 bankruptcy case of Robert Francis Koehler ("Debtor") has been filed by Drew and Elizabeth Prinz ("Movant"), a creditor. Movant asserts that the case should be dismissed or converted based on the following grounds:

- A. Debtor filed the current bankruptcy case in an inequitable manner and unfairly manipulated the Bankruptcy Code because he dismissed his first bankruptcy case after substantial time and expense was devoted to an Adversary Proceeding and contested matters to decide an exception to discharge, conversion of case to Chapter 7 and objections to claims of exemption.
- B. The debtor filed in bad faith because his second case was filed 23 days after the first bankruptcy case was voluntarily dismissed.
- C. The debtor's intent was to only defeat the state court litigation because both the first and second bankruptcy cases were filed within hours of adverse rulings by the state court.
- D. The debtor's behavior is egregious because he is using the bankruptcy system to avoid paying a judgment to an elderly client.

Movant's also contend that conversion, rather than dismissal, is in the best interest of creditors because dismissal will require the movants to seek satisfaction of their claims through alternative means, whereas Chapter 7 will provide payment to the Movants as quickly as reasonably possible. Movants further argue that liquidation is the better alternative because the Debtor has a significant amount of non-exempt assets available to pay movants.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 11, 2022. Dkt. 41. Debtor states that movants and debtor agreed to stay the associated adversary

proceeding until the cross appeals in state court have been resolved and there is no prejudice to creditors - who are the only creditors in the case - because there is sufficient equity beyond the debtor's claimed homestead exemption to pay creditors' judgement in full with interest and attorney fees. The debtor further contends that conversion could cause irreparable harm to debtor if liquidation occurs before the appeals are resolved in state court.

PRIOR HEARING

At the prior hearing on August 25, 2022, the motion was continued to allow the debtor time to propose a plan that is feasible, provides adequate assurance to the creditor and would satisfy all of the Court's concerns whether cause exists to either convert to Chapter 13 or dismiss the case.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" Nelson v. Meyer (In re Nelson), 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing Ho v. Dowell (In re Ho), 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause

11 U.S.C. § 1307(c). The court engages in a "totality of circumstances" test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. Drummond v. Welsh (In re Welsh), 711 F.3d 1120, 1123 (9th Cir. 2013) (citing Leavitt v. Soto (In re Leavitt), 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated "for cause" grounds under 11 U.S.C. § 1307. Nady v. DeFrantz (In re DeFrantz), 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing In re Leavitt, 171 F.3d at 1224).

DISCUSSION

At the hearing **xxxxxxx**

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 Convert the Chapter 13 case filed by Drew and Elizabeth Prinz ("a creditor") 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 Convert is ~~xxxxxxx~~

7. [17-23949](#)-C-13 MINNIE DAWSON
[ETW](#)-2 Peter Macaluso

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
7-18-22 [[96](#)]

LIL WAVE FINANCIAL INC. 401
K PLAN VS.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 38 days' notice was provided. Dkt. 101.

The Motion for Relief from the Automatic Stay is xxxxxxx

Lil Wave Financial Inc. 401K Plan ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's property commonly known as 5650 Martin Luther King Blvd., Sacramento, California (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors is delinquent \$9,500 postpetition payments and \$40,413.97 in property taxes. Declaration, Dkt. 98. Movant also argues cause exists because the debtor has failed to provide current insurance on the property.

At the prior hearing on August 25, 2022, the Trustee represented that the \$9,500 had been paid. However, the Trustee also represented that the \$5,000 payment due on August 25 had not registered as having been paid. Counsel for the debtor represented that the payment was being made and the motion was continued to verify that payment was actually made and the debtor was current on all plan payments.

DISCUSSION

At the hearing xxxxxxxxxx

Based on the foregoing, the Motion is xxxxxxx

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 Lil Wave Financial Inc. 401K Plan ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of
11 U.S.C. § 362(a) are ~~xxxxxxxxxx~~

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 45 days' notice was provided. Dkt. 83.

The Motion to Modify Plan is ~~xxxxxxxx~~

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 78) filed on July 11, 2022.

The Chapter 13 Trustee filed an Opposition (Dkt. 84) on August 4, 2022, opposing confirmation on the following grounds:

1. The debtor is delinquent \$2,700 in plan payments; and
2. The plan is not feasible because it does not provide for the correct amount of postpetition arrears.

At the prior hearing the Trustee represented that the July payment was being processed; however, the Trustee also represented that the August payment was due and was not registering as having been paid. Counsel for the debtor represented that the payment was being made. The motion was continued to verify that payment was made and the debtor was current on all plan payments.

DISCUSSION

At the hearing ~~xxxxxxxx~~

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

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

The Motion to Modify Plan filed by the debtor, Tema Kay Robinson, 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 ~~xxxxxxxx~~

9. [22-20471](#)-C-13 NATHANIEL JONES
[RDG](#)-2 Peter Macaluso

CONTINUED MOTION TO DISMISS
CASE
8-10-22 [[43](#)]

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 15 days' notice was provided. Dkt. 46.

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on May 24, 2022.

The debtor filed an opposition (dkt. 47) representing that he has signed an amended plan that allows for the filing, setting, and serving of an amended Chapter 13 plan.

On September 1, 2022, the debtor filed an amended plan and corresponding Motion to Confirm. Dkts. 55, 51.

Because it appears the debtor is actively prosecuting the case, the Motion is denied without prejudice.

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, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied without prejudice.

10. [22-21477](#)-C-13 VICTOR NAVARRO AND OBJECTION TO HOMESTEAD
[RDG-2](#) KRISTINA ZAPATA NAVARRO EXEMPTION
Gary Fraley 7-28-22 [[24](#)]

Final Ruling: No appearance at the September 12, 2022 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 46 days' notice was provided. Dkt. 27.

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 Objection to Claimed Exemption is sustained, and the homestead exemption is disallowed.

The Chapter 13 trustee filed this Objection to the debtors' claimed homestead exemption pursuant to C.C.C.P. § 704.730 because the amount claimed is greater than allowed by California Statutes. The California statute provides for an exemption - as adjusted for inflation - in the greater amount of \$312,600, or the county wide median sales price for a single-family home in the calendar year prior to the calendar year in which the judgement debtor claims the exemption, not to exceed \$625,200. Cal. C. Civ. Pro. § 740.730.

The debtors have claimed an exemption in the amount of \$600,000 on their residence located in Sacramento County, California. The Trustee has provided information from the California Association of Realtors' website that suggests the median sales price for 2021 in Sacramento County is \$508,500.

The burden of proof on the amount of a claimed homestead exemption is a substantive question of law, which is governed by state law. *In re Tallerico*, 532 B.R. 774, 776 (Bankr. E.D. Cal. 2015). Where state law allocates the burden of proof to the debtor, Federal Rule of Bankruptcy Procedure 4003(c) does not alter that allocation. *In re Diaz*, 547 B.R. 329, 337 (9th Cir. B.A.P. 2016). California mandates the use of state exemptions and places the burden of proof on the party claiming the exemption. *Id.*; See also Cal. Civ. Proc. Code § 740.780(a)(2).

Having the burden of proof as to the amount claimed on the homestead objection, the debtors have not provided any evidence they are entitled to the \$600,000 exemption. Therefore, the trustee's Objection is sustained, and the claimed homestead exemption is disallowed.

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 Claimed Exemption filed by the Chapter 13 Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection is sustained, and the claimed homestead exemption for \$600,000 under California Code of Civil Procedure § 740.730 is disallowed.

11. [22-21686](#)-C-13 CONNOR SCHAUER
[RDG](#)-1 Peter Maclausio

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
8-25-22 [[20](#)]

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 18 days' notice was provided. Dkt. 24.

The Objection to Confirmation of Plan is sustained.

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

1. The debtor's amended schedule J double counts the monthly home ownership expense, and removing the mortgage expense would yield a monthly net income of \$3,492.81 compared to \$500.81 on the amended schedule J;
2. The debtor's amended schedule J double counts self-employment tax expense, and removing the tax expense would yield a monthly net income on top of the income indicated in item 1. above of \$3,646.81; and
3. The Trustee requests further information related to "Other" expense of \$8,074.23 listed on the provided P&L statement.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on September 1, 2022. Dkt. 25. The debtor represents that the Profit & Loss statement for the debtor's non-filing spouses business was prepared for a CPA to file taxes. Debtor further asserts there are no duplications in the mortgage expense or self-employment tax expense in the amended schedules.

DISCUSSION

The plan proposes a monthly payment that may be less than all of the debtor's disposable income. That is reason to deny confirmation. 11 U.S.C. § 1325(b)(1).

Debtor also appears to have not provided the information related to "Other" expense and is required to submit those documents and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1) & (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, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

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 39 days' notice was provided. Dkt. 24.

The Objection to Confirmation of Plan is sustained.

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

1. The 341 meeting has not been held;
2. The plan fails the liquidation test because there are non-exempt assets available for distribution and the plan must pay 5% to general unsecured creditors instead of the 0% in the plan;
3. The plan does not comply with § 1325(b)(1)(B) because the projected disposable income available indicates an 88% dividend to general unsecured creditors instead of the 0% in the plan; and
4. The plan is not feasible because the monthly payments with Trustee compensation and expense totals \$1,580.50 and the plan payment is \$1,253.

DEBTOR'S OPPOSITION

No opposition has been filed, but a review of the docket shows that the debtor did attend the continued 341 meeting on September 1, 2022 and the 341 meeting has been concluded as to the debtor.

DISCUSSION

The debtor has non-exempt assets totaling \$38,875.25. The plan provides for a 0 percent dividend to unsecured claims, which is less than the 5 percent dividend necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

The plan proposes a monthly payment of \$1,253, which is less than all of the debtor's disposable income. That is reason to deny confirmation. 11 U.S.C. § 1325(b)(1).

The plan mathematically requires a payment of \$1,580.50 per month, which is greater than the proposed \$1,253.00 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, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

13. [22-21394](#)-C-13 KATHY JONES CONTINUED OBJECTION TO
[RDG](#)-1 Peter Macaluso CONFIRMATION OF PLAN BY RUSSELL
D. GREER
7-22-22 [[20](#)]

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. 23.

The Objection to Confirmation of Plan is xxxxxxxxxx

The Chapter 13 Trustee, Russell Greer ("Trustee"), filed an objection to confirmation of the Chapter 13 plan on July 22, 2022. Dkt. 20.

At the prior hearing on August 25, 2022, it was determined the debtor had responded to all of the Trustee's objections except for providing the Trustee a copy of the Debra Elaine Trust. The motion was continued to allow the debtor to provide that document to the Trustee.

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

IT IS ORDERED that the Objection is xxxxxxxxxx