

**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

Honorable Christopher D. Jaime  
Robert T. Matsui U.S. Courthouse  
501 I Street, Sixth Floor  
Sacramento, California

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: October 17, 2023**

**CALENDAR: 1:00 P.M. CHAPTER 13**

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

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

**October 17, 2023 at 1:00 p.m.**

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1. [21-20402](#)-B-13 ALFONSO PULIDO MOTION TO REFINANCE  
[PGM](#)-6 Peter G. Macaluso 9-20-23 [[111](#)]

**Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition and a reply were filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to grant the motion to refinance.

The motion seeks permission to enter into a refinance with PB Financial Group Corporation, the total hard money loan not to exceed \$250,000.00, with monthly payments not to exceed \$2,289.58 at 10.99% fixed interest for 36 months. The Debtor intends to use the proceeds from the refinance to pay off his plan at 100% and end the plan. Debtor states that should the funding be insufficient to fund the plan at 100%, he will file a modified plan to complete payment to creditors. The Debtor also requests that Rule 6004(h) be waived to allow the Trustee to issue a demand and fund the plan from the proceeds of this sale.

The Chapter 13 Trustee opposes the motion on grounds that it has not received a copy of an appraisal of the real property, that no preliminary report has been generated, and no escrow and title conditions have been determined. Separately, the Debtor is delinquent \$27,468.00 through September 2023. The Debtor has paid \$148,373.00 into the plan to date.

The Debtor filed a reply stating that an appraisal was completed and the property was valued at \$550,000.00 but that an official report has yet to be completed. The Debtor also acknowledges that conventional documents have not been provided since this is a hard money loan. Nonetheless, Debtor asserts that all of the proceeds from the loan will be paid into the plan and, should the amount not be sufficient to pay the plan at 100%, the Debtor will modify the plan within two weeks of closing.

**Discussion**

A motion to incur debt is governed by Federal Rule of Bankruptcy Procedure 4001(c). *In re Gonzales*, No. 08-00719, 2009 WL 1939850, at \*1 (Bankr. N.D. Iowa July 6, 2009). Rule 4001(c) requires that the motion list or summarize all material provisions of the proposed credit agreement, "including interest rate, maturity, events of default, liens, borrowing limits, and borrowing conditions." Fed. R. Bankr. P. 4001(c)(1)(B). Moreover, a copy of the agreement must be provided to the court. *Id.* at 4001(c)(1)(A). The court must know the details of the collateral as well as the financing agreement to adequately review post-confirmation financing agreements. *In re Clemons*, 358 B.R. 714,

**October 17, 2023 at 1:00 p.m.**

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716 (Bankr. W.D. Ky. 2007).

The court finds that the proposed credit, based on the unique facts and circumstances of this case, is reasonable. The motion is granted.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

2. [22-21609](#)-B-13 FRANCISCO/MARIA PADILLA  
[RAS](#)-1 Peter G. Macaluso

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR RELIEF FROM CO-DEBTOR STAY  
9-18-23 [[98](#)]

U.S. BANK NATIONAL  
ASSOCIATION VS.

**Final Ruling**

The case having been dismissed on October 8, 2023, the motion for relief from automatic stay is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.

3. [23-22530](#)-B-13 SHA SHAVONDILA PIERSON CONTINUED ORDER TO SHOW CAUSE -  
Thru #4 Pro Se FAILURE TO PAY FEES  
9-5-23 [[20](#)]

**Final Ruling**

The court continued this matter from September 26, 2023, to provide debtor Sha S. Pierson additional time to cure the \$79.00 that was due August 30, 2023, and the \$78.00 that became due September 29, 2023. If the Debtor did not bring the fee installments current by October 17, 2023, the case would be dismissed. See dkt. 22. A review of the court's docket indicates that the fee installments have not been cured. Therefore, the case will be dismissed.

The order to show cause is ORDERED SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

4. [23-22530](#)-B-13 SHA SHAVONDILA PIERSON OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 Pro Se PLAN BY LILIAN G. TSANG  
9-27-23 [[24](#)]

**Final Ruling**

The case having been dismissed at Item #3, the objection to confirmation of plan is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

5. [23-22638](#)-B-13 JEFFERY HANSEN AND STACEY OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 HORSLEY-HANSEN PLAN BY LILIAN G. TSANG  
Peter G. Macaluso 9-27-23 [[26](#)]

### **Final Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.<sup>1</sup>

First, the Debtors have failed to provide the Chapter 13 Trustee with Business Documents including 6 months of profit and loss statements and copies of Debtors' liability riders and workers' compensation riders, if applicable, for all of Debtor and Co-Debtors businesses. 11 U.S.C. § 521(e)(2)(A), FRBP 4002(b)(3). This is required 7 days before the date set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(i).

Second, the Debtors have failed to provide the Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv). This is required 7 days before the date set for the first meeting of creditors pursuant to Local Bankr. R. 1007-1.

Third, the attachment to Schedule I that provides for Debtors' business income and expenses needs to be filed as well as copies of all 2021 and 2022 business tax returns. Until these documents are provided, it cannot be determined whether the plan is feasible under 11 U.S.C. § 1325(a)(6).

Fourth, based on Debtor's schedules, there are non-exempt assets of \$6,753.00 available for distribution to general unsecured creditors. Based on Debtors' schedules, the Debtors have non-priority general unsecured claims totaling \$185,231.43. Accordingly, in order to meet the liquidation test of 11 U.S.C. § 1325(a)(4), the plan must pay 3.65% (\$6,753.00 divided by \$185,231.43) to Debtors' general unsecured creditors. Debtors' plan pays only 1.40% and therefore fails the liquidation test.

Fifth, the Debtors' plan is not proposed in good faith under 11 U.S.C. § 1325(a)(3). The Debtors' Statement of Financial Affairs fails to accurately list income for the years 2021 and 2022, fails to accurately list workers compensation claim and other lawsuits, and fails to accurately list all of the Debtors' businesses for the 4 years before filing.

The plan filed August 21, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.

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<sup>1</sup>Creditor Warroom Ventures, LLC filed an objection to confirmation on October 16, 2023. It is rendered moot by this decision.

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the Debtor did not file a declaration in support of the Motion to Modify to provide sufficient evidence in support of modification pursuant to Local Bankruptcy Rule 9014-1(d)(3)(D).

Second, the Debtor failed to file the Mandatory Certificate of Service, EDC Form 7-005, Rev. 10/22, pursuant to Local Bankruptcy Rule 7005-1.

Third, Section 7 - Nonstandard Provisions for Section 2.01 of Debtor's plan provides for plan payments to increase from \$3,750.00 to \$4,000.00 beginning in month 45 (December 2023). However, the Debtor has failed to file supplemental Schedules I and/or Schedule J to support the increased plan payment. Without updated schedules, it cannot be determined whether the plan is feasible under 11 U.S.C. § 1325(a)(6).

Fourth, Section 7.01 - Nonstandard Provisions for Section 2.01 of Debtor's plan provides for plan payments of \$3,750.00 for 15 months (September 2022 - November 2023) and plan payments of \$4,000.00 for 45 months (December 2023 - August 2027), but suspends plan delinquencies through October 2023. More clarification is needed to determine whether the plan is feasible under 11 U.S.C. § 1325(a)(6).

Fifth, Section 7.02 - Nonstandard Provisions for Section 3.07(b) of Debtor's plan provides that all post-petition arrears to Class 1 Creditor Selene Finance through October 2023 shall be paid through the remainder of the plan. The Chapter 13 Trustee's disbursement records show that there are no outstanding post-petition arrears on Class 1 creditor Selene Finance's claim. The distribution of monies cannot be appropriately distributed without further clarification.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

7. [23-22562](#)-B-13 KENNETH/SOPHIA MOORE  
[LGT](#)-1 Lauren Franzella

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-25-23 [[26](#)]

### **Final Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

Debtors' Plan provides for Superior Loan Servicing as a Class 1 claim. Superior Loan Servicing filed Claim 11-1 indicating a loan maturity date of August 1, 2027, or month 48 of Debtors' 60-month plan. Since the loan matures within the plan term, the correct classification of Superior Loan Servicing is a Class 2 claim. Due to the misclassification of the creditor, the plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed August 1, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.



8. [23-22580](#)-B-13 LINDA GRANATO  
[LGT](#)-1 Len ReidReynoso  
**Add on #10**

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-25-23 [[27](#)]

**Final Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, the Debtor's schedules need to be amended to reflect that she has 100% ownership in the residence located at 19001 N. Augusta Street, Woodbridge, California. Until amended Schedules A/B and C are filed, it cannot be determined if the Debtor's plan meets the liquidation test of 11 U.S.C. § 1325(a)(4).

Second, the plan relies on a motion to value collateral of Toyota Financial. That motion was denied at Item #10, LRR-1.

Third, the plan has not been prepared in good faith and places an administrative burden on the Chapter 13 Trustee's office since it requires the Trustee to make miniscule payments to two creditors in the amounts of \$9.00 and \$12.00. Pursuant to Fed. R. Bankr. P. 3010(b), no payment in an amount less than \$15.00 shall be distributed by the Trustee to any creditor unless authorized by local rule or order of the court, and funds not distributed because of this subdivision shall accumulate and shall be paid once the accumulation aggregates \$15.00.

The plan filed August 2, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.

9. [20-22995](#)-B-13 GILBERT/BLANCA LUIS  
[SKI](#)-1 Peter G. Macaluso

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-15-23 [[99](#)]

FORD MOTOR CREDIT COMPANY  
LLC VS.

### **Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition, a reply, and a response were filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to grant the motion for relief from automatic stay.

Ford Motor Credit Company LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2018 Ford Fusion (the "Vehicle"). The moving party has provided the Declaration of Pamela Rucker to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor. The Rucker Declaration states that the Debtors are delinquent two post-petition payments.

Debtors filed a reply stating that they believe that they are current with payments that have come due and that their plan provides for Movant's claim in Class 4.

Movant filed a response stating that since its motion was filed, the Debtors made two payments for a total of \$770.00. As of October 19, 2023, the Debtors account is still in default for \$599.02.

The value of the Vehicle is listed as "N/A" in Movant's Relief from Stay Information Sheet. The Vehicle is not listed in Debtors' Schedules A/B or D. Instead, only a 2017 Ford Explorer and 2016 Ford F250 are listed on Debtors' schedules.

### **Discussion**

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtors and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtors or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtors or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

10. [23-22580](#)-B-13 LINDA GRANATO  
[LRR](#)-1 Len ReidReynoso  
**See Also #8**

CONTINUED MOTION TO VALUE  
COLLATERAL OF TOYOTA FINANCIAL  
SERVICES  
8-31-23 [[13](#)]

### **Final Ruling**

This matter was continued from October 10, 2023. See dkt. 35. The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to deny the motion to value collateral.

Debtor moves to value the secured claim of Toyota Financial Services ("Creditor"). Debtor is the owner of a 2019 Toyota Yaris ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$8,414.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank* (In re *Enewally*), 368 F.3d 1165, 1173 (9th Cir. 2004).

Creditor has filed an opposition to Debtor's motion and requests that the matter be continued so that the Creditor can obtain an appraisal or that it be denied due to the purchase-money loan being incurred within 910 days prior to the filing of the petition.

### **Discussion**

Poor of Claim 2-1 shows that the date the purchase-money loan was incurred was March 23, 2021. This is within 910 days before the bankruptcy was filed on August 2, 2023. The purchase money debt on a motor vehicle acquired for a debtor's personal use cannot be lien stripped if the debt was incurred within 910 days before the bankruptcy filing. 11 U.S.C. § 1325(a)(9). Where the § 1325 lien stripping prohibition applies, the entire amount of the debt on the motor vehicle must be paid under a plan and not just the collateral's replacement value. Accordingly, the Debtors' motion is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.