

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

October 25, 2022 at 1:30 p.m.

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1. [22-20868](#)-C-13 RYAN BORUFF STIPULATION RE: COMPLAINT  
[22-2045](#) KR-1 9-6-22 [[9](#)]

THE GOLDEN 1 CREDIT UNION V.  
BORUFF

**Tentative Ruling:**

By order of this court, the parties were required to attend the hearing on the submitted stipulation. Dkt. 11.

<b>The Stipulation is Approved.</b>
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Plaintiff/Creditor, The Golden 1 Credit Union, and Defendant/Debtor, Ryan Zenobius Boruff, filed this stipulation in this adversary proceeding (dkt. 9) agreeing that the total amount of debt owed to Creditor (\$33,612.84) plus attorney's fees and costs (\$3,500) shall be nondischargeable under 11 U.S.C. § 523(a)(2).

It is further stipulated that interest at the rate of 10% shall be stayed to the extent that debtor agrees to make monthly payments in the amount of \$250 beginning on September 15, 2022 and every month on the 15<sup>th</sup> thereafter until the entire amount is paid in full.

The stipulation requires the debtor to make the payments directly to Creditor at the address specified by Creditor, and Creditor agrees to file a full satisfaction of judgement or dismissal with prejudice with the court upon the completion of the payments, and will file and record a release of lien.

The court finds that the proposed stipulation, based on the unique facts and circumstances of this case, is reasonable. There being no opposition from any party in interest and the terms being reasonable, the stipulation is approved.

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 stipulation filed by The Golden 1 Credit Union and Ryan Zenobius Boruff 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 Stipulation is approved.

2. [22-21979](#)-C-13 MARK/ROBERTA VILLARREAL  
[CJK](#)-1

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY WELLS  
FARGO BANK, NA  
9-22-22 [[22](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) procedure which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 23.

**The Objection to Confirmation of Plan is sustained.**

Creditor, Wells Fargo Bank N.A. as Trustee, on behalf of The Holders of Structured Asset Mortgage Investments II, Inc., Bear Stearns Mortgage Funding, Trust 2007-AR4, Mortgage Pass Through Certificates, Series 2007-AR4 by Select Portfolio Servicing, Inc. as service ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan does not provide for curing the prepetition arrears owed to Creditor.

**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).

Objection is conditionally sustained.

**Conditional Nature of this Ruling**

The hearing is continued to October 25, 2022, at 1:30 p.m.

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 15, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

**RESPONSE**

The debtors timely submitted a response on October 11 representing that counsel for the debtor and creditor have been in discussions to resolve Creditor's claim and enter into a stipulation. Debtors' counsel represents that she believes the stipulation will be finalized to be presented at, or

before, the hearing.

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 Wells Fargo Bank N.A. as Trustee, on behalf of The Holders of Structured Asset Mortgage Investments II, Inc., Bear Stearns Mortgage Funding, Trust 2007-AR4, Mortgage Pass Through Certificates, Series 2007-AR4 by Select Portfolio Servicing, Inc. as service, 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 to the extent and for the reasons stated in the minutes.