UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 28, 2013 at 10:00 a.m.

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1. 13-30804-A-11 ELWYN/JEANNINE DUBEY — MOTION FOR RELIEF FROM AUTOMATIC STAY
GPJ-1 — 9-24-13 [27]
UNITED STATE OF AMERICA VS.

Tentative Ruling: The motion will be granted.

The movant, the United States Department of Justice, seeks relief from the automatic stay as to four real properties, two in Georgetown, California, one in Coloma, California, and one in Garden Valley, California. The movant is asking for relief pursuant to 11 U.S.C. § 362(d)(2) and (d)(4).

The debtors oppose the motion. They continue to raise fraudulent conveyance issues already litigated in district court. They dispute the amount of the government's claim. They deny their multiple bankruptcy filings and the reason for the dismissal of their chapter 7 case.

11 U.S.C. § 362(d)(4) provides in pertinent part that:

"On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . . (4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either--

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property."

The movant has shown that it is entitled to relief under § 362(d)(4) because the debtors engaged in a scheme to hinder or delay creditors. This court granted relief to the same movant in the debtor's prior chapter 7 case with regard to the same properties because of a conclusion that the debtors had acted in bad faith. (Case No. 2010-29110, Docket 58). Though that ruling is not binding here, the same scheme to delay is yet in place.

Though the test in 11 U.S.C. § 362(d)(4)(A) & (B) is in the disjunctive, the scheme at issue in this case involves both types of misconduct contemplated by it. First, the district court concluded that the properties at issue here were fraudulently conveyed, which is the type of misconduct contemplated by § 364(d)(4)(A). (Case No. 2:07-cv-02372, Docket 140). Despite the court order naming the debtors as the owners of the properties, they failed to list the properties in their schedules in the chapter 7 case, which led to a bad faith

conclusion in that case (Case No. 2010-29110, Docket 58). The debtors filed the instant bankruptcy case on August 16, 2013 under chapter 11 (Docket 1), but did include the properties (Docket 20).

However, filing more than one case is the type of conduct contemplated by § 364(d)(4)(B). The first case was filed one day before the day the debtors were required to vacate the properties. (Case No. 2010-29110, Docket 58 at 2). The instant case was filed shortly after the IRS denied the debtor's request to delay the sale of the properties. (Docket 29 at 3). From the timing of the bankruptcy filings and the bad faith in filing the prior case, the court infers a scheme to delay or hinder creditors. The debtors argue that "inferences are not facts," so that the court cannot conclude that there is a scheme to delay or hinder because such an inference is improper. (Docket 37, ¶ 6). This argument is incorrect. The court may make findings of fact based on inferences from the record. In fact, other courts have opined that a determination of whether or not a scheme exists will always be an extrapolation because no debtor is expected to admit to having conducted a scheme. In re Briggs, 2012 WL 3780542, at *5 (Bankr. N.D. Ill. Aug. 31, 2012).

Turning to section 362(d)(2), the movant has also shown, and the debtors do not dispute, that the properties have an aggregate value of no more than $962,000. See Schedule A (while inconsistent, listing the aggregate value of the properties at less than $962,000, *i.e.*, $787,000 or $812,000).

On the other hand, the movant's claim totals approximately $2,033,048. Although the debtors assert that the movant's claim is overstated, the debtors have produced no evidence that they owe less than $962,000 to the movant.

More, the debtor's schedules themselves list the amount of the claim as $1,194,000. The movant has shown there is no equity in the properties.

Further, there is no evidence that the properties are necessary to an effective reorganization. That is, the debtors have come forward with no evidence that a reorganization that depends upon the subject properties is in prospect. The debtors have the burden to establish necessity to an effective reorganization, when the moving creditor has shown that its claim is under-secured. United Sav. Ass'n of Texas v. Timbers of Inwwod Forest Assocs., Ltd., 484 U.S. 365, 375 (1988).

The standard in a chapter 11 proceeding is a showing that "the property is essential for an effective reorganization that is in prospect." This means, that there must be "a reasonable possibility of a successful reorganization within a reasonable time." Timbers at 376.

The debtors' opposition to the motion says nothing about how the properties are necessary to an effective reorganization. Nor is there any evidence with the opposition establishing necessity to an effective reorganization.

The court concludes that there is no equity in the properties and there is no evidence that they are necessary to an effective reorganization or that they can be administered for the benefit of unsecured creditors.

The court reaches no conclusion about the validity of the movant's claim. Stay relief motions are summary proceedings, meaning that the court does not determine the validity of the movant's claim. Biggs v. Stovin (In re Luz Int'l), 219 B.R. 837, 841-42 (B.A.P. 9th Cir. 1998); In re Johnson, 756 F.2d 738, 740 (9th Cir. 1985). Such relief requires an adversary proceeding. Fed.

R. Bankr. P. 7001(2). The granting of this motion does not mean that the court has determined that the movant's claim is valid and enforceable.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) and (4) to permit the movant to dispose of the properties in accordance with the district court's orders in the district court litigation between the movant and the debtors.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

2. 11-25317-A-7 MOHAMMAD/SOUSAN MOTIEY — ORDER TO SHOW CAUSE
13-2122
NORTHERN CALIFORNIA COLLECTION SERVICE, INC. V. MOTIEY ET AL — 9-18-13 [13]

Tentative Ruling: This proceeding will be dismissed.

This order to show cause was issued because there is a pending duplicate proceeding brought by the chapter 7 trustee in the underlying bankruptcy case.

The instant proceeding was brought in this court on April 9, 2013 by the filing of a notice of removal by the chapter 7 trustee in the bankruptcy case. The complaint attached to the notice of removal was brought by Northern California Collection Services pre-petition against the debtors in the bankruptcy case, Mohammed and Sousan Motiey, including other third-party defendants, seeking the avoidance and recovery of fraudulent transfers and seeking damages for conspiracy to hinder, delay and defraud NCCS in the collection of its claim.

Yet, on April 8, 2013, one day before this proceeding was initiated, the trustee filed his own adversary proceeding (Adv. Proc. No. 13-2121), pleading the same fraudulent conveyance action as in this proceeding, along with other claims against the debtors and the same third-party defendants named in this proceeding. As the complaints in the two proceedings are pleading the same or similar claims, are seeking the same or similar relief, and the claims are asserted against the same defendants, the court is inclined to dismiss the instant adversary proceeding.

3. 13-30417-A-13 PATRICK FAGUNDES — MOTION TO DISMISS
13-2261
FAGUNDES V. JPMORGAN CHASE ET AL — 9-20-13 [11]

Final Ruling: The motion will be dismissed without prejudice.

The motion does not comply with Local Bankruptcy Rule 9014-1 because when it was filed it was not accompanied by a *separate* proof of service. See Local Bankruptcy Rule 9014-1(e)(3). Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.

The motion will be dismissed also because the notice of hearing violates Local Bankruptcy Rule 9014-1(d)(3), which requires the notice to indicate whether and when written opposition must be filed. The subject notice of hearing does not indicate whether and when written oppositions must be filed. Docket 12.

Finally, the motion violates Local Bankruptcy Rule 9014-1(c) because the motion papers do not contain a unique docket control number. This requirement avoids any confusion in locating and identifying papers filed in connection with the motion.

4. 13-30417-A-13 PATRICK FAGUNDES — STATUS CONFERENCE
13-2261 — 8-21-13 [1]
FAGUNDES V. JPMORGAN CHASE ET AL

Tentative Ruling: None.

5. 13-32417-A-11 BALBIR/SAWARNJIT SEKHON — AMENDED MOTION TO USE CASH COLLATERAL
MRL-2 — 10-15-13 [48]

Tentative Ruling: The motion will be denied.

The court continued the hearing on this motion from September 30, 2013 but allowed interim use of cash collateral. The debtors have filed an amendment to their motion and the respondent creditor has filed an opposition to the motion. An amended ruling from September 30, 2013 follows below.

The debtors seek approval to use the cash collateral of Oceanic Redding, LP, consisting of proceeds generated from the debtors' operation of a 69-room hotel.

Oceanic Redding opposes the motion.

11 U.S.C. § 1107(a) provides that a debtor-in-possession shall have all rights, powers, and shall perform all functions and duties, subject to certain exceptions, of a trustee, "[s]ubject to any limitations on [that] trustee." This includes the trustee's rights under 11 U.S.C. § 363. 11 U.S.C. § 363(c)(2)(B), (c)(3), (e) provides that, when the secured claimants with interest in the cash collateral do not consent, after notice and a hearing, "the court . . . shall prohibit or condition such use [of cash collateral] . . . as is necessary to provide adequate protection of such interest."

Oceanic Redding holds the first deed of trust on the hotel property, securing a claim for approximately $1.9 million, excluding interest, attorney's fees and other costs. The monthly payments on the loan are $13,099. The debtors assert that the property has a value of approximately $900,000. The hotel generates approximately $48,159 a month. The debtors desire to use those proceeds to pay the monthly expenses associated with keeping the hotel business open, including:

- $11,929 for payroll,
- $2,904 for supplies,
- $905 for guest breakfast,
- $8,769.33 for utilities,
- $1,302.50 for maintenance expenses,
- $608.83 for credit card fees,
- $1,527.33 for insurance,

- $882.33 for advertising and commissions,
- $4,500 as a fee to the debtors for their management of the hotel,
- $338 for an auto clerk expense that is not explained in the motion,
- $132.33 to maintain the permits necessary for the operation of the hotel,
- $797.75 for property taxes,
- $288.84 for miscellaneous expenses,
- $350 for legal, accounting and other professional fees,
- $800 for U.S. Trustee fees,
- $800 for bankruptcy attorney's fees.

Total Budget = $36,835.24

This leaves $11,323.76 of net income, after the total budget of $36,835.24 is subtracted from the $48,159 in monthly gross income. The debtors propose to deposit the income in the debtors' DIP account, not to be utilized absent further court order or consent of Oceanic Redding.

In addition, the debtors are asking for permission to deviate from the above budget by no more than 15% without further order of the court.

The motion will be denied.

The debtors admit that there is no equity in the hotel property by which HBC's interest in the $48,159 of cash collateral can be protected.

Further, the debtors offer no other adequate protection of Oceanic Redding's interest in the cash collateral. While there is an important benefit from the proposed use of the cash collateral - namely, keeping the hotel business open and continuing to generate revenue - there is no protection, adequate or not, for Oceanic Redding's interest in the $48,159 of cash collateral.

Finally, based on the evidence submitted by Oceanic Redding in its opposition to the motion, the court is not convinced that the debtors' proposed budget is accurate and complete. If the debtors' budget figures are as asserted in the motion, then the debtors should have accumulated well over $100,000 since December 2012, when they stopped making payments on account of the note held by Oceanic Redding. The motion says that the debtors are netting $11,323.76 a month from the hotel, which amounts to over $113,230 over the 10 months since they stopped making payments on the note.

However, as pointed out by Oceanic Redding, the debtors had only $800 in cash and $9,375 in bank accounts on the petition date. Schedule B. The debtors have not explained what they did with the purported $11,323 in net monthly income from the hotel since December 2012.

There are only two possible explanations for the missing net income from the hotel operations budget for the 10 months pre-petition. One explanation is that the debtors spent the net income for their personal benefit. The other explanation is that the debtors spent the net income on hotel operations expenses that are not part of the budget in this motion.

The evidence submitted by Oceanic Redding suggests that the budget in the instant motion is incomplete because, for 2010, the debtors disclosed that the property taxes were $1,800 a month and not $797, the credit card fees were $895 a month and not $608, the advertising and commissions fees were $1,377 ($595 + $782) a month and not $882, and the debtors had a telephone fee of $761 a month and cable and internet fee of $1,466 a month that are non-existent in the

budget submitted with this motion. Docket 45 Ex. 7.

The 2010 budget figures reflect approximately $4,010 of higher monthly expenses than in the budget submitted with this motion, bringing the monthly expenses to a total of approximately $40,845, and leaving only approximately $7,314 of net income, which equals to 15% of the total budget of $48,159. This remaining 15% is consumed by the debtors' need for a 15% deviation from the budget to cover unanticipated expenses.

In other words, based on the debtors' 2010 figures, there is no net income from the operation of the hotel.

In any event, the court should not have to speculate about how the debtors spent the net income from the operation of the hotel, since December 2012. But, based on the foregoing, the court is not convinced that the debtors are completely truthful about their hotel operations budget. This is another reason for denial of the motion.

6. 13-32417-A-11 BALBIR/SAWARNJIT SEKHON — STATUS CONFERENCE 9-23-13 [1]

Tentative Ruling: None.

7. 13-22534-A-11 SUPPLY HARDWARE, INC. — OBJECTION TO CLAIM
WSS-10
VS. PEOPLE OF THE STATE OF CA, YOLO COUNTY DISTRICT ATTORNEY — 9-4-13 [131]

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The objection will be dismissed as moot.

The debtor objects to priority claim 3 for $14,664.76, filed on June 11, 2013 by the Yolo County District Attorney's Office. The debtor contends that there is no priority basis for the claim.

However, the objection will be dismissed as moot because the creditor amended the proof of claim on September 23, 2013. The new proof of claim does not assert any priority for the claim.

8. 13-22534-A-11 SUPPLY HARDWARE, INC. — OBJECTION TO CLAIM
WSS-11
VS. PEOPLE OF THE STATE OF CA, SACRAMENTO COUNTY DISTRICT ATTORNEY — 9-4-13 [137]

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The objection will be dismissed as moot.

The debtor objects to priority claim 4 for $15,600, filed on June 11, 2013 by the Sacramento County District Attorney's Office. The debtor contends that there is no priority basis for the claim.

However, the objection will be dismissed as moot because the creditor amended the proof of claim on September 23, 2013. The new proof of claim does not assert any priority for the claim.

9. 13-28248-A-11 GLENN BARNEY — MOTION TO EMPLOY
TMP-1 — 9-16-13 [85]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The debtor requests authority to employ Tony Pankopf as bankruptcy counsel for the estate. The movant's compensation will be based on an hourly fee arrangement. Mr. Pankopf will assist the debtor with the administration of the chapter 11 estate, including, without limitation, advising the debtor about his powers and obligations in bankruptcy, representing the debtor at the meeting of creditors, assisting with the prosecution of motions necessary to the estate's administration, making appearances at various hearings, negotiating with creditors, preparing the plan and disclosure statement, obtaining plan confirmation, addressing post-confirmation issues.

11 U.S.C. § 1107(a) provides that a debtor in possession shall have all rights, powers, and shall perform all functions and duties, subject to certain exceptions, of a trustee, "[s]ubject to any limitations on [that] trustee." This includes the trustee's right to employ professional persons under 11 U.S.C. § 327(a). This section states that, subject to court approval, a trustee may employ professionals to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions . . . including . . . on a contingent fee basis."

The court concludes that the terms of employment and compensation are reasonable. Mr. Pankopf is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. The employment will be approved.

10. 12-29757-A-7 RICHARD/DANA TOWNSEND — MOTION TO COMPEL DISCOVERY
12-2449 PCB-3 — 9-24-13 [77]
AQUATECH CORPORATION V. TOWNSEND ET AL

Final Ruling: The hearing on this motion was continued to December 9, 2013 at 10:00 a.m. Docket 84.

11. 12-27062-A-11 CECIL PULLIAM
MRL-7

MOTION FOR FINAL DECREE
9-10-13 [114]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The debtor moves for an order entering final decree and closing the case as the administrator has liquidated all assets under the debtor's confirmed plan and is about to make all final distributions under the plan.

11 U.S.C. § 350(a) provides that "[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case." Similarly, Fed. R. Bankr. P. 3022 provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case."

In the chapter 11 context, courts have defined full administration as substantial consummation. In re Wade, 991 F.2d 402, 406 n.2 (7th Cir. 1993) (citing In re BankEast Corp., 132 B.R. 665, 668 n.3 (Bankr. D.N.H. 1991)). Substantial consummation is defined by section 1101(2) as "(A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan."

The court confirmed the debtor's chapter 11 plan on August 26, 2013. The debtor is not in default under the plan and distribution under the plan has started already. The debtor has paid the administrative expense claims that were due on or before the effective date of the plan and has paid the first payments under the plan, due to the Class 1 creditor on August 1, 2013. Docket 116 ¶¶ 8 & 9. The debtor has resumed control over the assets he has retained under the plan. And, there are no outstanding motions or proceedings.

Based on this, the court concludes that substantial consummation has been achieved. Accordingly, the court will enter a final decree and close the case. The motion will be granted.

12. 12-27062-A-11 CECIL PULLIAM
MRL-8

MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY (FEES $8,760) AND (FEES $5,887.50)
9-30-13 [120]

Final Ruling: This motion has been set for hearing on the notice required by

Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Mikalah Liviakis and C. Anthony Hughes, co-counsel for the debtor, have filed their second interim and final motion for approval of compensation. The requested compensation consists of $4,876.50 in fees and $0.00 in expenses. $1,882.50 is for work performed by Mr. Liviakis and $2,994 is for work performed by Mr. Hughes.

This motion covers the period from April 30, 2013 through September 30, 2013. The court approved the movants' employment as the debtor's attorneys on June 21, 2012. In performing their services, the movants charged hourly rates of $120, $225, and $300.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The applicants' services included, without limitation: (1) preparing order approving disclosure statement, plan ballots, brief in support of plan confirmation, amended plan, and motion for entry of final decree, (2) addressing loan modification issues, (3) assisting in the preparation of operating reports, (4) discussing votes on the plan with creditors, and (5) preparing and filing compensation motions.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

13. 13-28493-A-12 BUCKHORN RANCH, LLC
PJR-1
TRI COUNTIES BANK VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
10-1-13 [112]

Final Ruling: The hearing on this motion has been continued by the parties to November 12, 2013 at 10:00 a.m.

14. 13-28493-A-12 BUCKHORN RANCH, LLC
WW-8

MOTION TO
APPROVE COMPENSATION OF DEBTOR'S ATTORNEY (FEES $22,016.50, EXP. $1,183.10)
9-26-13 [103]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the chapter 12 trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468

F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Walter & Wilhelm Law Group, attorney for the debtor in possession, has filed its first interim motion for approval of compensation. The order approving the movant's employment was entered on July 8, 2013. The movant seeks approval and payment of $22,016.50 in fees and $1,183.10 in expenses, for a total of $23,199.60. The requested compensation is for the period from August 10, 2013 through September 23, 2013. The compensation includes hourly rates of $50, $80, $125, $250, and $435.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The applicant's services included, without limitation: (1) amending the schedules, (2) preparing and filing a complaint objecting to the claim of Tom Gifford, (3) preparing and filing papers in support of plan confirmation, (4) preparing and filing stipulation for continuance of the plan confirmation hearing, (5) preparing and filing a request for extension of the time to confirm the plan, and (6) reviewing and responding to the plan confirmation objections of Tri Counties Bank and Tom Gifford.

The court concludes that the compensation is for actual, necessary, and beneficial services rendered. The compensation will be approved.

15. 12-41197-A-11 JOHN/MARTA SCHULZE — MOTION TO CONFIRM PLAN
JHH-5 — 9-5-13 [76]

Tentative Ruling: The hearing on the motion will be continued.

The debtors ask the court to confirm their chapter 11 plan.

Creditor Greater Sacramento Certified Development Corporation has filed a "rejection of debtor's plan," and asks the court to continue the hearing on the motion as its counsel will not be available to attend the October 28 hearing.

The court is willing to continue the hearing on the motion. However, continuance of the hearing does not extend the deadline for filing plan confirmation objections. The court's order approving the disclosure statement, entered on September 16, 2013, fixed October 21, 2013 as the last day for filing plan confirmation objections. Docket 80.

16. 12-35330-A-12 BETTE SPAICH — EVIDENTIARY HEARING RE: MOTION TO CONFIRM CHAPTER 12 PLAN
4-19-13 [60]

Tentative Ruling: The court will hold an evidentiary hearing on the debtor's plan confirmation. The hearing will commence when the court has disposed of all other matters set for hearing on 10:00 a.m. calendar. It will continue at 2:00 p.m. after te court has disposed of all matters on its 1:30 p.m. and 2:00 p.m. calendars. If it has not concluded by 4:00 p.m., the hearing will be continued to a date and time to be determined by the court.