

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

**Honorable Ronald H. Sargis**  
Bankruptcy Judge  
Sacramento, California

**November 2, 2023 at 11:30 a.m.**

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1. <a href="#"><u>23-21438-E-12</u></a> <a href="#"><u>CAE-1</u></a>	<b>WESLEY/RUTH WOOLERY</b>	<b>CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 5-2-23 <a href="#"><u>[1]</u></a></b>
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Debtors' Atty: Stephen M. Reynolds

Notes:

Continued from 9/28/23. Specially set to be conducted in conjunction with the hearing on the proposed plan to be filed.

Order Approving Final Report and Account of Resigning Trustee and Discharging Trustee filed 10/11/23 [Dckt 100]

Trustee Report at 341 Meeting lodged 10/17/23

**The Status Conference is continued to 2:00 p.m. on XXXXXXX, 202XXXXXXX**

**NOVEMBER 2, 2023 CONTINUED STATUS CONFERENCE**

On October 26, 2023, the Debtor in Possession filed the Monthly Operating Report for September 2023. The cash flow information states that there have been receipts of \$23,597 and disbursements of (\$21,816), resulting in a positive cash flow of \$2,438.

At the Status Conference, XXXXXXX

**SEPTEMBER 28, 2023 STATUS CONFERENCE**

At the hearing, the counsel for the Debtor in Possession reported that he anticipates filing the plan and disclosure statement in a week. Further, that the projected hearing date for the Motion to Confirm is November 2, 2023 at 11:30 a.m.

## **JUNE 8, 2023 STATUS CONFERENCE**

The Debtor in Possession filed Status Conference Report on May 31, 2023. Dckt. 51. In this Status Report the Debtor in Possession states that there are no significant motions to be prosecuted and that the Debtor in Possession intends to timely file a Chapter 12 Plan of Reorganization.

With respect to providing evidence that Debtor was eligible to file a case under Chapter 12, the following is stated:

The creditor meeting in this case is scheduled for June 6, 2023. Debtors are providing the Chapter 12 Trustee various documents which may provide the Trustee the information he requires to make his report regarding Chapter 12 Eligibility. The vast majority of the debt and income in this case is farm related and eligibility issues are not anticipated.

Status Report, p. 2:7-11; Dckt. 51.

Michael Meyer, the Chapter 12 Trustee, provided his Status Report, filed on June 2, 2023. Dckt. 52. The Trustee discusses the delay in Debtor in filing the required Schedules. Additionally, the Trustee states that the Debtor, who is serving as the Debtor in Possession, has not provided various documents, which is preventing the 341 Meeting of Creditors being conducted. These documents, requested on May 9, 2023, include:

- a. Last Two Years Tax Returns
- b. Bank Statements for The Last Six Months.
- c. Business Licenses
- d. Income Statement and Balance Sheets
- e. Insurance Policies
- f. Cash Flow Statements
- g. Copies of the Deed for each property owned or leased by the debtor including details as to acreage and crop status
- h. Production records with respect to growing crops. Corporate and LLC or LLLP documents.
- I. All lawsuits
- j. List of all inventory and equipment with current values dates of purchase and values when purchased

k. List of all funds, accounts receivables, claims pending escrows, owed to the business at the time of filing.

l. Any and all permits required to operate the business.

Trustee Status Report, p. 2:10-27; Dckt. 52.

The Trustee notes that the Order Setting the Chapter 12 Status Conference requires the Debtor, serving as the Debtor in Possession, file with the court for the Status Conference evidence showing eligibility to file a Chapter 12 Case, not merely provide it to the Trustee. The court's Order setting the Status Conference states:

The court also intends to review the issue of Chapter 12 eligibility. Before the court can confirm a Chapter 12 plan, the court must make a finding that the plan complies with the provisions of Chapter 12 and the other applicable provisions of the Bankruptcy Code. 11 U.S.C. § 1225(a)(1). **One of those provisions is 11 U.S.C. § 101(18), which defines who is a "family farmer" eligible for relief under Chapter 12. Eligibility is a necessary requirement to confirmation of a Chapter 12 plan under § 1225(a)(1). *In re Garako Farms, Inc.*, 98 B.R. 506, 508 (Bankr. E.D. Cal. 1988). The Debtor has the burden of proof to convince the court that the requirements of § 1225 have been met. *Id.* at 509.**

On or before 6/14/23, the **Debtor(s) shall file and serve** on the Chapter 12 Trustee a status report together with **evidence and legal authority to establish that these Debtor(s) are a "family farmer" as that term is defined in § 101(18)(A).** Said evidence shall include, but not be limited to, documentation which illustrates the nature of and parties to each of the farm related secured debts listed in Schedule D. The parties shall also file and serve evidence to show the terms of any partnership agreements, real property leases, crop sharing agreements or other documents which tend to show who owns and operates the farming operation of the Debtors' property. The Trustee is invited to file his report and analysis regarding the issue of eligibility.

Order Setting Chapter 12 Status Conference, p. 2; Dckt. 10. (Emphasis added.)

At the Status Conference, counsel for the Debtor in Possession and Creditor stated that they have a stipulation for the interim use of cash collateral. The court continues the Status Conference to the same day and time as the continued hearing on the Motion to Use Cash Collateral.