

Amrane Cohen, Chapter 13 Trustee 770 The City Drive South, Suite 8500 Orange, CA 92868 Phone: (714) 621-0200 Fax (714) 621-0277 Chapter 13 Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	CHAPTER 13 CASE NUMBER 6:10-bk-49751-MH
In re: James Thompson Lillie D Thompson Debtor(s).	(No Hearing Required)

TRUSTEE'S COMMENTS ON OR OBJECTION TO:

- DEBTOR'S MOTION TO MODIFY PLAN OR SUSPEND PLAN PAYMENTS**
- DEBTOR'S MOTION FOR AUTHORITY TO INCUR DEBT**
- DEBTOR'S MOTION FOR AUTHORITY TO REFINANCE REAL PROPERTY**
- DEBTOR'S MOTION FOR AUTHORITY TO SELL REAL PROPERTY**
- OTHER:**

The undersigned Chapter 13 Trustee, having reviewed Debtor's Motion filed on 5/29/13 as docket entry number 61, recommends:

- APPROVAL
- APPROVAL on the following conditions:
- DISAPPROVAL for the following reasons: See attached sheet.
- Set for hearing.

Dated: 6/25/2013

/S/
Amrane Cohen, Chapter 13 Trustee

In re: James Thompson Lillie D Thompson	Debtor(s).	CHAPTER 13 CASE NUMBER 6:10-bk-49751-MH
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Debtors seek to reduce their plan payment from \$1,553 per month to \$1,151 starting in month 11. Debtors state the reason for the plan modification is because their new loan modification no longer requires them to pay arrears thru the plan, allowing them to increase the unsecured dividend while no longer contributing their social security income. Debtors go on to state that the \$946.00 "is social security and not required to be turned over to creditors pursuant to In re Welsh, 465 BR 843, 852 (BAP 9th Cir. 2012)".

Trustee recognizes 11 USC 101(10)(A)(B) excludes social security income from "current monthly income" and that failure to pledge social security income alone is not a basis for finding a lack of good faith. Welsh, 465 B.R. at 857. However, (1) plan modification under 11 USC §1329 does not incorporate the disposable monthly income provisions of 1325(b), see In re Sunihara, 326 B.R. 768 (B.A.P. 9th Cir. 2005) (holding § 1325(b) is not incorporated into §1329 except as a factor in determining good faith), and (2) Debtors have provided no basis for why they should not be required to pledge the funds they had originally volunteered to contribute. Debtors obtained a total savings of \$1,189.00 per month via the loan modification and failed to pledge even ½ of this savings back into the plan.

Debtors' attorney may lodge an order to deny the motion or set the matter for hearing

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

770 The City Drive South, Suite 8500, Orange, CA 92868

A true and correct copy of the foregoing document entitled (*specify*): **TRUSTEE'S COMMENTS ON OR OBJECTION TO: MOTION TO MODIFY PLAN OR SUSPEND PLAN PAYMENTS** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 6/26/13, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Amrane Cohen efilers@ch13ac.com
United States Trustee (RS) ustregion16.rs.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 6/26/13, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

James Thompson
Lillie D Thompson
7670 Dunkirk Ave.
Highland, CA 92346

William D May
350 W Fourth St
Claremont, CA 91711

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/26/13 TANYA CARDENAS
Date Printed Name

/s/
Signature