Dated: August 22, 2025
The following is ORDERED:

Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:
Evelyn Thomas, Case No. 24-22030
Debtor. Chapter 13
_____/

MEMORANDUM OPINION AND ORDER DENYING
OBJECTION TO CONFIRMATION AND MOTION FOR RELIEF FROM STAY

This case came before the Court on April 1, 2025, on the *Objection to Confirmation*[1] of JP Morgan Chase Bank, N.A., ("Bank") the Bank's *Amended Objection to Confirmation*,[2] the Bank's *Motion for In Rem Relief from Automatic Stay*,[3] and Evelyn Thomas's ("Ms. Thomas's") *Objection to Motion for Relief from Automatic Stay*.[4] After Ms. Thomas passed, her daughter, Afiya Towers ("Ms. Towers") sought to confirm Ms. Thomas's chapter 13 plan. First, the Bank objected to confirming Ms. Thomas's plan because she proposed it in bad faith, it was infeasible,

[1] Bank's Obj. to Confirmation, ECF No. 24.

[2] Bank's Am. Obj. to Confirmation, ECF No. 67.

[3] Bank's Mot. for Relief from Stay, ECF No. 48.

[4] Obj. to Mot. for Relief from Stay, ECF No. 56.

and it failed to compensate the Bank for the time-value of its money.[5] After Ms. Thomas passed and Ms. Towers filed an amended plan addressing the Bank's objection, the Bank objected because only a debtor may file a plan under 11 U.S.C. § 1321.[6] The Bank also moved for *in rem* relief from the automatic stay.[7]

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Background

Before passing, Ms. Thomas owned a house in Benton Harbor, Michigan ("House").[8] On March 15, 2020, while in Memphis, Tennessee, Ms. Thomas suffered a stroke.[9] During her recovery, Ms. Thomas stayed with her daughter in Memphis.[10] Ms. Thomas struggled to pay the Bank's loan on her House.[11] Ms. Towers, acting with a power of attorney, filed three prior bankruptcies for her mother.[12] Ms. Towers did not engage the services of a bankruptcy attorney.[13] Each case was dismissed because a filing requirement was not satisfied.[14] Ms. Towers explained that when she would file bankruptcy for her mother, the Bank would offer to modify the loan.[15]

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[5] Bank's Obj. to Confirmation, ¶¶ 5-10, ECF No. 24.

[6] Bank's Am. Obj. to Confirmation, ¶5, ECF No. 67.

[7] Bank's Mot. for Relief from Stay, ECF No. 48.

[8] Schedule A/B, ¶ 1.1, ECF No. 45.

[9] Hr'g on March 18, 2025, at 12:19 p.m.

[10] Hr'g on March 18, 2025, at 12:19 p.m.

[11] Hr'g on April 1, 2025, at 10:24 a.m.

[12] Case Nos. 23-21070; 24-20169; and 24-21328.

[13] Hr'g on March 18, 2025, at 12:01 p.m.

[14] Hr'g on April 1, 2025, at 10:23 a.m.

[15] Hr'g on April 1, 2025, at 10:24 a.m.

Ms. Towers would pursue the loan modification with the Bank and allow the bankruptcy case to be dismissed.[16] Ultimately, the Bank never modified the loan.[17]

B. Procedural Background

Ms. Thomas filed the instant bankruptcy case *pro se* on May 1, 2024.[18] The Bank's claim was secured by Ms. Thomas's House in Michigan for $39,188.29 with an interest rate set at the Wall Street Journal Prime Rate (8.5% at the time).[19] Ms. Thomas listed the value of her House at $37,000.[20] But the House has an assessed value of $77,000.[21] According to the Claims Register, the only remaining claims are general unsecured debts, totaling $2,203. Most appear to be for medical services. Prior to filing a plan, Ms. Thomas passed on July 28, 2024.[22] After Ms. Thomas passed, Ms. Towers filed the original plan on September 30, 2024.

1. Chapter 13 Trustee's Objection to Confirmation

On December 13, 2024, the chapter 13 trustee marked the meeting of creditors conducted. On December 26, 2024, the chapter 13 trustee objected to confirmation due to feasibility concerns and errors in the plan and schedules.[23]

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[16] Hr'g on April 1, 2025, at 10: 24 a.m.

[17] Hr'g on April 1, 2025, at 10: 24 a.m.

[18] Volunt. Pet., ECF No. 1.

[19] Claim No. 12, at p. 2, ¶ 7 and p. 10. The current prime rate is 7.5%. *See* WSJ Money Rates, Wall Street Journal (Aug. 15, 2025), https://www.wsj.com/market-data/bonds/moneyrates?gaa_at=eafs&gaa_n=ASWzDAjzKaUYrpenvr5tIKt-fBY31byf_0bRceemI0qSKd2NiN2xFFAckTZc&gaa_ts=68a38829&gaa_sig=ylBc19sllpbf3ST4KeXIk_w2GCHK_zGA7kwU2O55Paghum_HNVO07N7qqmACD-r9OOTd_4LiKli5oWdI-dkJ_g%3D%3D [https://perma.cc/5A4G-V72F].

[20] Schedule A/B, ¶ 1.1, ECF No. 18.

[21] Ms. Thomas's Notice of Filing, p. 3, ECF No. 80.

[22] Bank's Am. Obj. to Confirmation of Plan, ECF No. 67, at ¶ 4.

[23] Ch. 13 trustee's Obj. to Confirmation, ECF No. 44.

2. The Bank's Objection to Confirmation

On October 9, 2025, the Bank objected to confirming Ms. Thomas's plan.[24] The Bank argued Ms. Thomas's plan could not be confirmed because it failed to compensate the Bank for the time-value of its money, including prime-plus-interest under 11 U.S.C. § 1325(a)(5)(B)(ii) and *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).[25] The Bank also argued the plan failed to address taxes and insurance; the plan was infeasible, and Ms. Thomas had filed for bankruptcy several times, indicating bad faith.[26]

3. The Bank's Motion for In Rem Relief

On January 3, 2025, the Bank moved for relief from the automatic stay.[27] The Bank argued there was cause for relief under subsections 362(d)(1) and 362(d)(4)(B) of the Bankruptcy Code.[28] The Bank adopted the $37,000 valuation of the House listed on Schedule A.[29] The Bank argued because this was Ms. Thomas's fourth chapter 13 bankruptcy since March 2, 2023, and the loan matured on November 1, 2023, it demonstrated Ms. Thomas was acting in bad faith and filed this bankruptcy as part of a scheme to hinder and delay the Bank from foreclosing on the House.[30]

[24] Bank's Obj. to Confirmation, ECF No. 24.

[25] Bank's Obj. to Confirmation, ¶¶ 5-6, ECF No. 24.

[26] Bank's Obj. to Confirmation, ¶¶ 7-10, ECF No. 24.

[27] Bank's Mot. for Relief from Stay, ECF No. 48.

[28] Bank's Mot. for Relief from Stay, ¶ 7, ECF No. 48.

[29] Bank's Mot. for Relief from Stay, ¶ 10, ECF No. 48.

[30] Bank's Mot. for Relief from Stay, ¶¶ 8-12, ECF No. 48.

4. The Bank's Amended Objection to Confirmation

On March 31, 2025, the Bank amended its objection to confirmation.[31] It argued because Ms. Thomas died before filing the plan, a plan cannot be confirmed under section 1321.[32] It argued the case could not be administered because section 343 requires the debtor to attend the meeting of creditors under section 341. Because Ms. Thomas has passed, she cannot attend the meeting of creditors or fund a chapter 13 plan.[33] Further subsection 109(e) only allows an individual with regular income to be a debtor.[34]

5. Ms. Thomas's Amended Schedules and Chapter 13 Plan

To resolve the chapter 13 trustee's objection to confirmation and the Bank's original objection to confirmation, Ms. Towers amended her mother's chapter 13 plan and Schedules I and J. On March 18, 2025, Ms. Towers filed the fourth amended chapter 13 plan.[35] The amended plan increased the monthly plan payment to the Bank to $838 and increased the interest rate to 10.25%, increasing the total monthly plan payment to $937.[36]

On April 1, 2025, Ms. Towers amended her mother's Schedules I and J.[37] The amended Schedule I showed Ms. Towers' income would be used to fund Ms. Thomas's plan.[38] The

[31] Bank's Am. Obj. to Confirmation, ECF No. 67.

[32] Bank's Am. Obj. to Confirmation, ¶ 5, ECF No. 67.

[33] Bank's Am. Obj. to Confirmation, ¶ 8, ECF No. 67.

[34] Bank's Am. Obj. to Confirmation, ¶ 8, ECF No. 67.

[35] Ms. Thomas's Am. Ch. 13 Plan, ECF No. 64.

[36] Ms. Thomas's Am. Ch. 13 Plan, ¶ 6, ECF No. 64.

[37] Am. Schedule I, ECF No. 70; and Am. Schedule J, ECF No. 71.

[38] Am. Schedule I, ¶ 8, ECF No. 70.

amended Schedule J showed Ms. Towers had sufficient income to fund the chapter 13 plan.[39] On April 2, 2025, the chapter 13 trustee withdrew her objection to confirmation.[40]

C. Hearings

The Court held two hearings on the Bank's motion for relief from stay and its two objections to confirmation. On March 18, 2025, the Court held the first hearing. During the hearing, the Bank argued Ms. Thomas's plan could not be confirmed because she was deceased, and her income was zero.[41] The Court asked the Bank if the case could continue under Federal Rule of Bankruptcy Procedure 1016, which allows a case to continue "as though the death … had not occurred."[42] The Bank said the only cases it saw that applied Rule 1016 were to allow a hardship discharge or dismiss the case.[43] And no cases applied Rule 1016 if the debtor passed before the court confirmed a plan.[44]

The Court held a second hearing on April 1, 2025. During that hearing, the Court asked the Bank for the House's value.[45] The Bank said it did not know the House's value.[46] The Bank conceded the fourth amended plan properly provided for its claim.[47] But it reiterated its argument under section 1321—only a debtor may propose a plan.[48] The Bank further argued for *in rem*

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[39] Am. Schedule J, ¶ 23, ECF No. 71.

[40] Order Withdrawing Ch. 13 Trustee's Obj. to Confirmation, ECF No. 74.

[41] Hr'g on March 18, 2025, at 12:05 p.m.

[42] Hr'g on March 18, 2025, at 12:05 p.m.; Fed. R. Bankr. P. 1016(b) (2025).

[43] Hr'g on March 18, 2025, at 12:06 p.m.

[44] Hr'g on March 18, 2025, at 12:06 p.m.

[45] H'rg on April 1, 2025, at 10:13 a.m.

[46] Hr'g on April 1, 2025, at 10:13 a.m.

[47] Hr'g on April 1, 2025, at 10:14 a.m.

[48] Hr'g on April 1, 2025, at 10:19 a.m.

relief under subsection 362(d)(4)(B).[49] Specifically, Ms. Thomas's House was vacant and depreciating.[50] Ms. Towers explained she was allowing someone to live at Ms. Thomas's House.[51] In exchange, the person would repair the House.[52] After the hearing, the Court took the Bank's motion for relief, objection to confirmation, and amended objection to confirmation under advisement.[53] Later, on April 21, 2025, Ms. Towers filed a notice of filing.[54] The filing evidenced the House was insured.[55]

II. DISCUSSION[56]

There are three issues before the Court. First, whether the Court should grant the Bank's motion for relief from the automatic stay under subsection 362(d). Second, whether the Court should sustain or deny the Bank's first objection to confirmation for bad faith filing. And third, whether to sustain the Bank's amended objection to confirmation or allow the case to proceed under Bankruptcy Rule 1016(b).

A. The Bank's motion for relief from stay is denied.

The Bank moved for relief from the automatic stay under subsections 362(d)(1) and 362(d)(4)(B). For relief under subsection 362(d), generally, the movant bears the burden to show

[49] Hr'g on April 1, 2025, at 10:13 a.m.

[50] Hr'g on April 1, 2025, at 10:13 a.m.

[51] Hr'g on April 1, 2025, at 10:29 a.m.

[52] Hr'g on April 1, 2025, at 10:29 a.m.

[53] Hr'g on April 1, 2025, at 10:25 a.m.

[54] Notice of Filing, ECF No. 80.

[55] Notice of Filing, ECF No. 80.

[56] The Court has subject-matter jurisdiction under 28 U.S.C. § 1334(b). Venue is proper in this District. 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (G), and (L). The following shall constitute the court's findings of fact and conclusions of the law in accordance with Rule 7052, Federal Rules of Bankruptcy Procedure.

there is no equity in the House.[57] After the moving party establishes cause exists under subsection 362(d)(1), the opposing party bears the burden of proof on all other issues.[58] When a party moves for relief under subsection 362(d)(4), it "'bears the initial burden to establish a prima facie case as to all the elements.'"[59]

1. There is no cause to grant relief under subsection 362(d)(1).

First, the Bank seeks relief from the stay under subsection 362(d)(1). The Bank argues there is cause for relief under subsection 362(d)(1) because Ms. Thomas filed multiple times, indicating she filed in bad faith. Under subsection 362(d)(1), the Court must grant relief from the automatic stay when there is cause.[60] Courts determine cause on a case-by-case basis.[61] There is cause to grant relief from stay when the debtor filed in bad faith.[62] The Sixth Circuit Court of Appeals has enumerated a non-exhaustive list of factors for courts to consider:

(1) the debtor has one asset;
(2) the pre-petition conduct of the debtor has been improper;
(3) there are only a few unsecured creditors;
(4) the debtor's property has been posted for foreclosure, and the debtor has been unsuccessful in defending against the foreclosure in state court;
(5) the debtor and one creditor have proceeded to a standstill in state court litigation, and the debtor has lost or has been required to post a bond which it cannot afford;

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[57] 11 U.S.C. § 362(g)(1) (2025).

[58] *In re Poissant*, 405 B.R. 267, 271 (Bankr. N.D. Ohio 2009) (citing *Sonnax Indus., Inc. v. Tri Component Products Corp. (In re Sonnax Indus., Inc.)*, 907 F.2d 1280, 1285 (2d Cir 1990) and 11 U.S.C. § 362(g) (2025)) ("If the Bank cannot make this initial showing, relief should be denied to the Bank without requiring the Debtor to make any showing that he is entitled to continued protection of the automatic stay").

[59] *In re Lee*, 467 B.R. 906, 920 (6th Cir. B.A.P. 2012) (quoting *In re Poissant*, 405 B.R. 267 at 273).

[60] 11 U.S.C. § 362(d)(1) (2025).

[61] *Laguna Assocs. Ltd. Pshp. v. Aetna Cas. & Sur. Co. (In re Laguna Assocs. Ltd. Pshp.)*, 30 F.3d 734, 737 (6th Cir. 1994) (citing *In re Zick*, 931 F.2d 1124, 1129 (6th Cir. 1991)). *See also In re Anderson*, 670 B.R. 528, 557–58 (Bankr. S.D. Ohio 2025) (citing *In re Gundrum*, 509 B.R. 155, 162–63 (Bankr. S.D. Ohio 2014) and *Laguna*, 30 F.3d at 737)) (discussing relief from stay in chapter 13 case and stating that: "While the Code 'does not define what constitutes cause under § 362(d)(1), courts determine whether relief from the automatic stay is appropriate on a case-by-case basis.'").

[62] *Id.* at 738 (6th Cir. 1994)

(6) the filing of the petition effectively allows the debtor to evade court orders;
(7) the debtor has no ongoing business or employees; and
(8) the lack of possibility of reorganization.[63]

The seventh factor, whether the debtor has an ongoing business or employees, is inapplicable in this case. Despite Ms. Thomas having only one asset—her House—this first factor is more appropriate in evaluating the granting of stay relief in single asset real estate cases.

The remaining factors weigh in favor of denying the Bank's motion. Failing to meet its burden, the Bank presented no evidence for the fourth; fifth; and sixth factors. Next, the Bank argued the debtor's multiple filings indicated bad faith, which would fall under the second factor—whether the debtor's prepetition conduct was improper. During the hearing, Ms. Towers explained every time her mother filed for bankruptcy, the Bank would contact them to negotiate a loan modification. Subsequently, Ms. Towers would allow her mother's case to be dismissed and negotiate with the Bank. The Bank never disputed this. Without presenting any evidence to the contrary, the Bank failed to meet its burden to show Ms. Thomas filed in bad faith.

2. Ms. Thomas's multiple filings were not part of a scheme to delay, hinder, or defraud the Bank

Next, the Bank sought relief under subsection 362(d)(4). Under subsection 362(d)(4), the Court may grant relief from the stay as to the House with prejudice if the debtor's multiple filings were "part of a scheme to delay, hinder or defraud creditors."[64] Put another way, subsection 362(d)(4) creates a three element test—"i) the debtor engaged in a scheme, ii) to

[63] *Id.* (citing *In re Charfoos*, 979 F.2d 390 (6th Cir. 1992)).

[64] 11 U.S.C. § 362(d)(4)(B) (2025).

delay, hinder and defraud the creditor, and iii) which involved … multiple filings."[65] The Bank bears the burden to establish all three elements.[66]

The Bank failed to meet its burden. The only element it established was that Ms. Thomas filed multiple times. Otherwise, it proffered no evidence to show she engaged in a scheme or had the intent to delay, hinder, or defraud the Bank. Further, Ms. Towers explained she would file bankruptcy for her mother. Soon after, the Bank would offer to modify the loan. Deciding to pursue the loan modification, Ms. Towers would allow her mother's case to be dismissed. The Bank did not dispute Ms. Tower's characterization of the prior filings. Accordingly, there is no cause for *in rem* relief from the stay as to Ms. Thomas's House.

B. The Bank's original objection to confirmation is denied.

The only remaining issue in the Bank's original objection to confirmation is whether Ms. Thomas's plan was proposed in bad faith. The Bank argued the plan was proposed in bad faith because the mortgage had matured.

Again, the Bank fails to meet its burden. The Bank's mortgage is secured by Ms. Thomas's principal residence. Under subsection 1322(c)(2), so long as the debtor's plan pays the mortgage holder's entire claim, then the mortgage may be included in the plan.[67] The fourth amended plan proposes to pay the Bank's entire claim. Although the Bank's claim

[65] *In re Poissant*, 405 B.R. 267, 273 (Bankr. N.D. Ohio 2009) ("Due to the extraordinary impact of this remedy, a creditor requesting such relief has a substantial burden of proof.").

[66] *Id.* (citing *In re Muhaimin*, 343 B.R. 159, 169-170 (Bankr. Md. 2006)).

[67] Subsection 1322(c)(2) states: "[I]n a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title " 11 U.S.C. § 1322(c)(2) (2025). *See In re Henning*, 420 B.R. 773, 787 (Bankr. W.D. Tenn. 2009) (citing *In re Escue*, 184 B.R. 287, 292 (Bankr. M.D. Tenn. 1995)).

matured pre-petition, the debtor's plan still complies with the Code. Accordingly, the plan is not proposed in bad faith.

C. The Bank's amended objection to confirmation is denied.

Finally, the Court must decide whether the case may continue under Rule 1016(b). There is no controlling Sixth Circuit precedent for whether a court should dismiss or allow a case to continue under Rule 1016(b). The plain language of Rule 1016(b) indicates it is within the Court's discretion whether to dismiss or allow a case to continue.[68] If a debtor passes, "the court *may* dismiss the case or *may* permit it to continue if further administration is possible and is in the parties' best interests."[69] Further, if the Court allows the case to proceed, then it must be "concluded in the same manner as though the death or incompetency had not occurred."[70] Before allowing a case to proceed, (1) further case administration must be possible and (2) it must be in the parties' best interest.[71]

1. Further case administration is possible.

There is no bright-line rule to determine whether further administration is possible. Some courts interpret the phrase narrowly—only allowing further administration if "incidental acts" remain.[72] Citing the court's slip opinions, a bankruptcy court in South Carolina explained incidental acts included requesting a discharge after all payments had been made or allowing a single voluntary payment from the deceased debtor's co-debtor or the deceased debtor's probate

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[68] Fed. R. Bankr. P. 1016(b) (2025).

[69] *Id.* 1016(b) (2025) (emphasis added).

[70] *Id.* 1016(b) (2025) (emphasis added).

[71] *In re Wells*, 660 B.R. 311, 318 (Bankr. E.D. Wash. 2024) (explaining the bankruptcy court's broad discretion in interpreting Bankruptcy Rule 1016).

[72] *In re Ward*, 652 B.R. 250, 258 (Bankr. D.S.C. 2023) (citing *In re Powell*, C/A No. 08-07093-jw, slip op. at 3 (Bankr. D.S.C. Jan. 23, 2014)) (concluding that the facts of the case did not support granting the motion to continue with further administration of the chapter 13 case).

estate to complete the plan.[73] The courts that use a narrow interpretation reason that the main purpose of chapter 13 is to give the debtor a "fresh start."[74] So no third party may substitute itself for the deceased debtor, essentially making Rule 1016 unworkable.[75]

Other courts interpret "further administration" broadly. In *In re Terry*, the district court in the Eastern District of Pennsylvania affirmed a bankruptcy court's decision to confirm the debtor's plan after the debtor's death and allowed a family member to pay the plan.[76] In that case, the debtor filed for bankruptcy after his real property was sold in a tax sale.[77] Because the property was sold before the debtor's right to redemption ended, the bankruptcy court undid the sale and allowed the debtor to pay the lienholder of the property through the plan.[78] The city moved to dismiss the case, in part because the debtor had passed pre-confirmation.[79]

The bankruptcy court rejected the city's argument that the case must be dismissed, and the district court affirmed.[80] Finding no abuse of discretion, the district court explained further administration was possible because the deceased debtor's sister would continue paying the

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[73] *Id.* (citing *In re Powell*, C/A No. 08-07093-jw, slip op. at 3 (Bankr. D.S.C. Jan. 23, 2014) and *In re Swarthout*, C/A No. 09-06263-JW, slip op. at 5 (Bankr. D.S.C. Jan. 14, 2014)).

[74] *In re Shepherd*, 490 B.R. 338, 341 (Bankr. N.D. Ind. 2013) (citing *Grogan v. Garner*, 498 U.S. 279, 286-287 (1991)) (denying motion to substitute personal representative for the debtor).

[75] *In re Wells*, 660 B.R. at 320 (citing *In re Fogel*, 550 B.R. 532, 535-36 (D. Colo. 2015) ("If no party could ever act on behalf of a deceased debtor because there is no separate rule specifically providing for formal substitution, the provision in Rule 1016 allowing a case to continue after the debtor's death would be meaningless.").

[76] *In re Terry*, 543 B.R. 173 (E.D. Penn. 2015).

[77] *Id.* at 176.

[78] *Id.*

[79] *Id.*

[80] *Id.* at 182.

debtor's plan payments and it was in the parties' best interest because the creditor would be paid in full.[81]

Like *Terry*, Ms. Thomas passed before the plan could be confirmed, and Ms. Towers is willing to make the plan payments and finish her mother's case. But the Bank raises three issues as to why the case cannot be further administered— (1) subsection 109(e) only allows a debtor with regular income to be a debtor; (2) section 343 requires the debtor to attend a meeting of creditors; and (3) only the debtor may propose a plan under section 1321. For the following reasons, all three arguments fail.

Following the legislative history and plain text of subsection 109(e), courts have held the statute's purpose is to "establish the dollar limitation of indebtedness that an individual with regular income can incur and still file under chapter 13."[82] Subsection 109(e) only allows individuals with regular income that owe less than $526,700 of unsecured debts and $1,580,125 of secured debts on the petition date.[83] Accordingly, courts have held that subsection 109(e) defines who may initiate a bankruptcy case and does not affect "post-petition events."[84] Further, requiring the debtor to always have regular income would make Rule 1016(b) unworkable. If a

[81] *Id.*

[82] *In re Perkins*, 381 B.R. 530, 535 (Bankr. S.D. Ill. 2007) (citing S. REP. No. 989, 95th Cong. 2d Sess., at 31 (1978)).

[83] 11 U.S.C. § 109(e) (2025). The eligibility dollar amounts change in 3-year intervals pursuant to 11 U.S.C. § 104 (2025).

[84] *In re Perkins*, 381 B.R. at 535.

debtor must always have regular income during their chapter 13 case, then there would be no scenario where a deceased debtor's case could be further administered under Rule 1016(b).

Next, the Bank argues section 343 requires the debtor to submit to an examination at the meeting of creditors. This point is moot. The chapter 13 trustee marked the meeting of creditors conducted and there were no objections.

Finally, the Bank asserts that only a debtor may propose a plan under section 1321. After Ms. Thomas passed, Ms. Towers filed an amended plan that would meet all criteria under section 1325, ostensibly violating section 1321. In its entirety section 1321 reads, "[t]he debtor shall file a plan."[85] But when interpreting a word or a phrase, it is important to consider the "statute's purpose and context."[86] It is well understood Congress created several "safety valves" in chapter 13 to avoid violating the Thirteenth Amendment of the U.S. Constitution, [87] to avoid "compulsory service in payment of a debt."[88] Because chapter 13 requires a debtor to provide all future earnings during the plan's life, it is imperative the debtor does so voluntarily.

Only the debtor may propose a plan under section 1321.[89] This is a stark contrast to chapter 11 where a creditor may propose a plan after 120 days from the petition date.[90] On its face, it would appear Ms. Towers should not be able to file a plan in her mother's case. But the purpose of section 1321 is to ensure the plan is voluntary, which it is. Because Ms. Towers will

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[85] 11 U.S.C. § 1321 (2025).

[86] *Dolan v. U.S. Postal Service*, 546 U.S. 481, 486 (2006).

[87] *In re Clemente*, 409 B.R. 288, 291 (Bankr. D.N.J. 2009) (citing *In re Noonan*, 17 B.R. 793, 799-800 (Bankr. S.D.N.Y. 1982) and Erwin Cherminsky, *Constitutional Issues Posed in the Bankruptcy Abuse and Consumer Protection Act of 2005*, 79 Am. Bankr. L.J. 571, 586-88 (2005)).

[88] *Bailey v. Alabama*, 219 U.S. 219, 242 (1911) (holding an Alabama statute unconstitutional because it attempted to side-step the Thirteenth Amendment by making performance of a contract compulsory through a criminal statute).

[89] *Id.* § 1321 (2025).

[90] *Id.* § 1121 (2025).

voluntarily fund the plan on her mother's behalf, section 1321 is not violated. Accordingly, further case administration is possible.

2. Allowing the case to continue is in the parties' best interest.

Next, under Rule 1016(b), the Court must determine whether it is in the parties' best interest to allow the case to continue.[91] The relevant parties are Ms. Thomas's estate, the Bank, and the general unsecured creditors. It is in Ms. Thomas's estate's best interest to allow the case to continue because it would be allowed to keep the House and repay its creditors in an orderly fashion.

It is in the Bank's best interest to allow the case to continue. The plan proposes to pay the Bank's $39,188.29 secured claim in full. The plan also increases the contract's interest rate from the Wall Street Journal Prime Rate to 10.25%. Moreover, it is unclear whether the Bank would be able to fully recover on its claim outside of Bankruptcy. In Ms. Thomas's notice of filing, the proof of insurance showed the House had a $77,000 assessed value. But in the Bank's motion for relief from stay, it adopted Ms. Thomas's $37,000 valuation of the House. And during the hearing, the Bank was unsure of the House's value. So, if the case continues, the Bank is given better terms than it originally agreed with a higher likelihood of recovering on its claim.

Finally, allowing the case to continue is in the remaining creditors' best interest. The chapter 13 trustee has withdrawn her objections to confirmation, and no other creditors have objected to confirmation. Like the Bank, it is also unclear how much the general unsecured

[91] Fed. R. Bankr. P. 1016(b) (2025).

creditors could recover outside of bankruptcy. But if the case continues, the general unsecured creditors may receive something.

III. CONCLUSION AND ORDER

For the reasons stated above, the Court finds and concludes the Bank's Objection to Confirmation, Motion for Relief from Stay, and Amended Objection to Confirmation are denied. Because further administration is possible and it is in the parties' best interest, Ms. Thomas's plan may continue under Rule 1016(b). Accordingly, it is **ORDERED**:

1. The Bank's *Objection to Confirmation*, *Motion for Relief from Stay*, and *Amended Objection to Confirmation* are **DENIED**.

2. Ms. Thomas's chapter 13 plan is **CONFIRMED**.

Copies to be served on:

Debtor: Afiya Towers for Evelyn Thomas, 2446 East Gemini Cove, Bartlett, TN 38134

Creditor: JPMorgan Chase Bank, National Association, 10 S Dearborn, Chicago, IL 60603, Attn: CEO

Creditor's Attorney: Bonni Culp, LOGS Legal Group, 10130 Perimeter Parkway, Suite 400, Charlotte, NC 28216; E-mail: LOGSECF@logs.com

Chapter 13 Trustee: Sylvia F. Brown, 200 Jefferson Ave, Suite 1113, Memphis, TN 38103; Email: ecf@ch13sfb.com

The matrix.