

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:

CLYDE V. HALE

Debtor(s)

Chapter 13

Case #99-42056

TRUSTEE'S FINDINGS
AND RECOMMENDATIONS

Trustee: L.D. Fitzgerald

Debtor's Attorney: Paula Brown Sinclair

Date of Hearing: March 27, 2000

Trustee's Findings and Recommendations

- yes (1) The plan complies with the requirements of Chapter 13 Title 11 USC.
- Yes (2) Required fees have been paid.
- yes (3) Plan is proposed in good faith.
- (4) Value of the property to be distributed to unsecured creditors is \$-0- The amount that would be paid to unsecured creditors in a Chapter 7 is \$ unknown
- no (5) Section 1325(a)(5) of the Bankruptcy Code is satisfied.
- no (6) Debtor will be able to make payments and comply with the Plan.
- no (7) Trustee's recommendations as to Confirmation
 Yes No.

MATTERS IN ISSUE: OBJECTION TO CONFIRMATION: Creditor is Conseco. Michael Schindele, Attorney. An amended plan was filed on March 16, 2000 which now proposes to surrender the collateral. The objection has probably been satisfied.

The State of Idaho shows unfiled Withholding returns for 12-99.

The Amended Chapter 13 plan filed on March 16, 2000 is underfunded by \$15.00 per month.

The Amended Plan does effect all creditors in that it surrenders additional property, reduces the amount that will be paid to the unsecured creditors. The required 15 day notice of the amended plan has not been given.

TRUSTEE DOES NOT RECOMMEND CONFIRMATION OF THE PLAN.

- a. The plan payments are delinquent.
- b. Unfiled tax returns

39

c. Creditors have not been given the required notice of the confirmation of the amended plan.

d. The plan does not give the Trustee the right to recover property, avoid liens pursuant to section 541, or to sell the property if recovered. It is the trustee opinion the lien of Great Dane Financial on a 1997 Reefer is avoidable and would provide a substantial payment to the unsecured creditors.

e. The debtors plan proposes to retain and pay the sum of \$3000.00 to Jensen Jewellery for what appears to be a 3/4 carat diamond ring. Documents seem to indicate this was purchased 11-98 for the sum of about \$4100.00. Debtor wants to pay \$3000.00 plus interest which amounts to \$101.39 per month. It does not appear there is an equity and this payment could go to unsecured creditors which total about \$68,000.00.

Debtors Plan Payments are delinquent.

Dated: March 23, 2000



L.D. Fitzgerald, Trustee