

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 7
)
CLAUDIO PABLO AVENDANO,) CASE NO. 15-64523-PWB
)
Debtor.)

NOTICE OF MOTION AND
NOTICE OF ASSIGNMENT OF HEARING

PLEASE TAKE NOTICE that the above Debtor has filed “*Motion to Convert Chapter 7 Case to Chapter 13*” in this case and related papers with the Court on October 20, 2015 (the “Motion”) (Docket Entry No. 21).

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in **Courtroom 1401**, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia on **November 17, 2015 at 10:00 AM.**

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing.

The address of the Clerk's Office is: Clerk, U. S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, SW, and Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

This 25th day of October, 2015.

_____/s/_____
Richard K. Valldejuli, Jr.
Ga. State Bar # 723225
Attorney for Debtor

Valldejuli & Associates, LLC
2199 Lenox Road, Suite A
Atlanta, Georgia 30324
(404) 636-9957

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DEBTOR’S MOTION TO CONVERT CHAPTER 7 CASE
TO A CASE UNDER CHAPTER 13

COMES NOW, the above captioned Debtor, and pursuant to 11 U.S.C. §706 and Bankruptcy Rule 2017(f) and 20012, hereby exercises his right to convert his Chapter 7 case to a case under Chapter 13, and in support thereof shows this Honorable Court the following:

1.

Debtor, *pro se*, filed a petition for an order for relief under Chapter 7 of the Bankruptcy Code on August 3, 2015.

2.

Neil C. Gordon was appointed to serve as the Chapter 7 Trustee (the “Trustee”).

3.

The Debtor filed this Chapter 7 case in order to stay the foreclosure of commercial property allowing him time to repay the mortgage arrearages. The property is located at 155 Liberty Road, Villa Rica, GA 30180 (the “Property”), which serves as his place of business and residence.

4.

The current value of the Property is \$374,370.00 based on the 2014 Douglas County Property Tax Assessments. Debtor’s ownership interest in the Property is subject to two (2)

separate deeds to secure debt as follows:

(a) Jerry E. Austin holds the first mortgage in the principal amount of \$497,400.00, with a pre-petition payment arrearage of approximately \$38,486.28.

(b) Lawson Realty, LLC holds the second priority mortgage in the principal amount of \$22,600.00, with a pre-petition payment arrearage of approximately \$3,200.00.

5.

On October 5, 2015, Jerry E. Austin filed a Motion for Relief from Stay (“Motion”) (Doc No. 18) seeking to recover the Property for cause, including lack of adequate protection and that the Property was not necessary for effective rehabilitation.

6.

Upon receiving the Motion, it became clear to the Debtor that he had filed the wrong Chapter (liquidation as opposed to reorganization) and sought legal counsel.

7.

Based on the foregoing Debtor has elected to convert his case to a Chapter 13 and file a Plan allowing him to cure the mortgage arrears to Jerry E. Austin and Lawson Realty, LLC and to resume making direct payments for ongoing monthly mortgage payments.

8.

There are no priority or general unsecured debts.

9.

The Debtor is otherwise qualified to be a Debtor under Chapter 13 pursuant to §109(e) of the Bankruptcy Code and is financially able, from payments of future income and/or liquidation of other assets, to allow for an effective reorganization.

10.

The Debtor has not previously converted this case from a case under Chapters 11 or 13 of the Bankruptcy Code, and herewith moves this Honorable Court to convert his Chapter 7 case to a case under Chapter 13.

WHEREFORE, Debtor prays for an order for relief under Chapter 13.

This 25th day of October, 2015.

Valldejuli & Associates, LLC
2199 Lenox Road, Suite A
Atlanta, Georgia 30324
(404) 636-9957

_____/s/_____
Richard K. Valldejuli, Jr.
Ga. State Bar # 723225
Attorney for Debtor

CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties in the foregoing matter with a true and correct copy of the foregoing *Debtor's Motion to Convert Chapter 7 Case to a Case Under Chapter 13 and Notice of Assignment of Hearing* by consent of the parties, the following have received an electronic copy to:

Office of the United States Trustee
362 Richard B. Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA30303

Neil C. Gordon
Arnall, Golden & Gregory, LLP
Suite 2100, 171 17th Street, NW
Atlanta, GA 30363

I further certify that the following have received by United States Mail, in a properly addressed envelope with adequate postage thereon to:

Jerry E. Austin
c/o Victor J. Harrison
Harrison & Horan, P.C.
Suite 101, 3150 Golf Ridge Boulevard
Douglasville, GA 30135

Lawson Realty LLC
4857 Yeager Road
Douglasville, GA 30135

I further certify that the following have received by e-mail to:

Victor J. Harrison
Harrison & Horan, P.C.
Suite 10, 3150 Golf Ridge Boulevard
Douglasville, GA 30135
vharrison@westgalaw.com

This 25th day of October, 2015.

_____/s/_____
Richard K. Valldejuli, Jr.
Ga. State Bar # 723225
Attorney for Debtor

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