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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

IN RE LISA AUBERT-BROWN,

Debtor,

LISA AUBERT-BROWN

Appellant,

vs.

MICHAEL MEYER,

Appellee.

CASE NO. CV F 12-1775 LJO

ORDER ON BANKRUPTCY APPEAL

(Doc. 12)

INTRODUCTION

Appellant Lisa Aubert-Brown (“Ms. Aubert-Brown”) seeks this Court’s review of a bankruptcy court order to dismiss Ms. Aubert-Brown’s Chapter 13 bankruptcy for her failure to comply with orders. This Court considered Ms. Aubert-Brown’s appeal on the current record and requires no further briefing. For the reasons discussed below, this Court DENIES to overturn dismissal of Ms. Aubert-Brown’s bankruptcy.

BACKGROUND

In Ms. Aubert-Brown’s bankruptcy, the trustee pursued dismissal for Ms. Aubert-Brown’s failure to make plan payments and unreasonable delay. The bankruptcy court entered its October 5, 2012 order

1 (“October 5”) that Ms. Aubert-Brown “shall provide the requested documents to the trustee within 7 days
2 or else this case will be dismissed on the trustee’s declaration without further notice or hearing.” At the
3 October 16, 2012 hearing to dismiss, the trustee’s counsel noted: “We did not get the documents
4 required from the prior hearing, and the drop-dead date was October 12th.” The bankruptcy court noted
5 Ms. Aubert-Brown’s disobedience of the October 5 order and dismissed her case, which was docketed
6 in an October 18, 2012 Notice of Entry of Order of Dismissal.

7 Ms. Aubert filed this action to appeal dismissal of her bankruptcy.

8 **DISCUSSION**

9 A district court reviews de novo a bankruptcy court’s conclusions of law. *Paulman v. Gateway*
10 *Venture Partners III*, 163 F.3d 570, 575 (9th Cir. 1998). Findings of fact by the bankruptcy court shall
11 not be disturbed unless they are clearly erroneous. F.R.Bankr.P. 8013. “Mixed questions of law and fact
12 are reviewed de novo. Such a question arises when the historical facts are established, the rule of law
13 is undisputed, and the issue is whether the facts satisfy the legal rule.” *In re OTA*, 179 B.R. 149, 155
14 (BAP 9th Cir. 1995).

15 Ms. Aubert-Brown characterizes the dismissal as based merely on her untimely payments.
16 However, the record reveals that the trustee sought dismissal based on Ms. Aubert-Brown’s
17 unreasonable delay, failure to appear at creditors’ meeting and failure to set a plan in addition to her
18 failure to make timely plan payments. Dismissal was based chiefly on Ms. Aubert-Brown’s failure to
19 provide documents, pursuant to the October 5 order. The record reveals no clear error to dismiss or other
20 grounds to disturb the bankruptcy court’s rulings.

21 **CONCLUSION AND ORDER**

22 For the reasons discussed above, this Court DENIES Ms. Aubert-Brown’s requested relief and
23 will not disturb bankruptcy court orders and rulings. This Court DIRECTS the clerk to close this action
24 and to enter a renewed judgment in favor of appellant Michael Meyer and against appellant Ms. Aubert-
25 Brown.

26 IT IS SO ORDERED.

27 **Dated: January 30, 2013**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE