

MAR 25 2016

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U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

In re:	)	BAP No.	SC-15-1228-FJuKi
	)		
MARSHALL CASEY PFEIFFER,	)	Bk. No.	13-09062-CL13
	)		
Debtor.	)		
_____	)		
	)		
MARSHALL CASEY PFEIFFER,	)		
	)		
Appellant,	)		
	)		
v.	)	<b>MEMORANDUM*</b>	
	)		
DAVID SKELTON, Trustee,**	)		
	)		
Appellee.	)		
_____	)		

Submitted Without Oral Argument  
on March 17, 2016

Filed - March 25, 2016

Appeal from the United States Bankruptcy Court  
for the Southern District of California

Honorable Christopher B. Latham, Bankruptcy Judge, Presiding

Appearances: Appellant Marshall Casey Pfeiffer, pro se, on the  
brief.

Before: FARIS, JURY, and KIRSCHER, Bankruptcy Judges.

\* This disposition is not appropriate for publication.  
Although it may be cited for whatever persuasive value it may  
have, see Fed. R. App. P. 32.1, it has no precedential value, see  
9th Cir. BAP Rule 8024-1.

\*\* Mr. Skelton did not file an answering brief or otherwise  
make an appearance in this appeal.



1 Mr. Pfeiffer's opposition, identifies the issuer as "Marshall  
2 Casey Pfeiffer" and the principal as "The United States of  
3 America." The Drawee is "United States in behalf of the United  
4 States of America," and the Promissory Note is "payable" at "The  
5 United States Treasury or at a Bank in the United States." The  
6 Promissory Note is "redeemable" at the "Treasury Department of  
7 the United States, City of Washington, District of Columbia or at  
8 Any Federal Reserve Bank."<sup>3</sup>

9 At the hearing on the Motion to Dismiss, Mr. Pfeiffer  
10 argued that the Promissory Note is legal tender because it is  
11 "legally the same as a check or a dollar bill." He contended  
12 that he "sent the promissory note to the principal [the United  
13 States of America] asking them to pay the debt because the  
14 principal is responsible for the debt as the principal of the  
15 agency. The principal is the beneficiary and legally responsible  
16 for all debts related to the agency that it created."

17 On July 1, 2015, the court issued its order granting the  
18 Motion to Dismiss (the "Order"). It determined that the  
19 Promissory Note is not legal tender. It also held that the  
20 Promissory Note is invalid, because "[t]here is no indication  
21 that Debtor has any standing, capacity, or authority whatever to  
22 draw upon the Federal Treasury or bind the United States in any  
23 kind of contract." The court concluded that Mr. Pfeiffer failed  
24 to make Plan payments, which constituted a material default under

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25  
26 <sup>3</sup> Mr. Pfeiffer also attached a document entitled "Purpose of  
27 Promissory Note." He stated that the Promissory Note was meant  
28 to pay off or discharge any debt as it relates to his bankruptcy  
case. He contended that the United States of America is the  
principal liable for payment on the Promissory Note.

1 the Plan, and dismissed the case under § 1307(c) (6).

2 Mr. Pfeiffer timely appealed the Order.

3 **JURISDICTION**

4 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.  
5 §§ 1334 and 157(b) (1). We have jurisdiction under 28 U.S.C.  
6 § 158.

7 **ISSUE**

8 Whether the bankruptcy court erred in dismissing  
9 Mr. Pfeiffer's chapter 13 case for failure to make plan payments.

10 **STANDARD OF REVIEW**

11 "We review the bankruptcy court's dismissal of a chapter 13  
12 bankruptcy case under any of the enumerated paragraphs of  
13 § 1307(c) for abuse of discretion." Schlegel v. Billingslea  
14 (In re Schlegel), 526 B.R. 333, 338 (9th Cir. BAP 2015) (citing  
15 Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth),  
16 455 B.R. 904, 914 (9th Cir. BAP 2011)).

17 To determine whether the bankruptcy court has abused its  
18 discretion, we conduct a two-step inquiry: (1) we review de novo  
19 whether the bankruptcy court "identified the correct legal rule  
20 to apply to the relief requested" and (2) if it did, whether the  
21 bankruptcy court's application of the legal standard was  
22 illogical, implausible, or "without support in inferences that  
23 may be drawn from the facts in the record." United States v.  
24 Hinkson, 585 F.3d 1247, 1261-62 & n.21 (9th Cir. 2009) (en banc).  
25 "If the bankruptcy court did not identify the correct legal rule,  
26 or its application of the correct legal standard to the facts was  
27 illogical, implausible, or without support in inferences that may  
28 be drawn from the facts in the record, then the bankruptcy court

1 has abused its discretion.” USAA Fed. Sav. Bank v. Thacker  
2 (In re Taylor), 599 F.3d 880, 887-88 (9th Cir. 2010) (citing  
3 Hinkson, 585 F.3d at 1261-62).

#### 4 DISCUSSION

##### 5 **A. Section 1307 allows dismissal for cause.**

6 The bankruptcy court correctly identified the applicable  
7 legal rule. Section 1307(c) allows the bankruptcy court to  
8 dismiss a case “for cause.” In re Schlegel, 526 B.R. at 339.  
9 That section provides:

10 (c) Except as provided in subsection (f) of this  
11 section, . . . the court may convert a case under this  
12 chapter to a case under chapter 7 of this title, or may  
13 dismiss a case under this chapter, whichever is in the  
14 best interests of creditors and the estate, for cause,  
15 including -

16 . . .

17 (6) material default by the debtor with respect to  
18 a term of a confirmed plan[.]

19 § 1307(c) (6). “The decision to dismiss a chapter 13 case under  
20 § 1307(c) is a discretionary decision of the trial court.”  
21 In re Schlegel, 526 B.R. at 339 (citation omitted)).

22 “Dismissal under § 1307(c) is a two-step process. Once the  
23 court has determined that cause to dismiss exists, it still must  
24 decide what remedial action – what form of dismissal – should be  
25 taken. . . .” In re Ellsworth, 455 B.R. at 922 (internal  
26 citations omitted); see Nelson v. Meyer (In re Nelson), 343 B.R.  
27 671, 675 (9th Cir. BAP 2006).

##### 28 **B. The bankruptcy court did not abuse its discretion in dismissing Mr. Pfeiffer’s case for failure to make Plan payments.**

We hold that the court did not err in determining that  
Mr. Pfeiffer failed to make his Plan payments and that his

1 default constituted cause for dismissal.

2 Mr. Pfeiffer contends that the Promissory Note constituted  
3 legal tender that satisfied the Plan in full. Mr. Pfeiffer is  
4 wrong on two counts.

5 First, the Promissory Note is not legal tender. As the  
6 bankruptcy court pointed out, legal tender for debts include  
7 "United States coins and currency (including Federal reserve  
8 notes and circulating notes of Federal reserve banks and national  
9 banks)." 31 U.S.C. § 5103. Black's Law Dictionary defines  
10 "currency" as "[a]n item (such as a coin, government note, or  
11 banknote) that circulates as a medium of exchange." Black's Law  
12 Dictionary (10th ed. 2014). Mr. Pfeiffer's Promissory Note fits  
13 none of these definitions. It is not coin or paper currency, nor  
14 is it issued by a bank or the federal government. Rather, it was  
15 unilaterally created and executed by Mr. Pfeiffer.

16 Second, Mr. Pfeiffer presents no evidence that he is  
17 entitled to draw upon the United States Treasury. He identifies  
18 himself as an "Agent" of Marshall Casey Pfeiffer, "in behalf of  
19 for the Principal United States of America." He claims that "the  
20 principal is responsible for the debt as the principal of the  
21 agency. The principal is the beneficiary and legally responsible  
22 for all debts related to the agency it created." He fails to  
23 offer any argument or authority explaining how he has become an  
24 agent of the United States with the power to require the United  
25 States to pay his debt.<sup>4</sup>

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26  
27 <sup>4</sup> Mr. Pfeiffer argues that the United States government and  
28 the California state government did not object to any of his acts  
(continued...)

