

Dianne C. Kerns, Trustee  
Office of Chapter 13 Bankruptcy  
PMB #413  
7320 N. La Cholla #154  
Tucson, AZ 85741  
Telephone (520) 544-9094

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: )  
)  
BARRY WEISBAND )  
)  
)  
)  
)  
)  
DEBTOR )

CHAPTER 13 PROCEEDINGS  
CASE NO.: 09-05175-TUC-EWH  
**TRUSTEE'S MOTION TO DISMISS  
FOR DELINQUENT PLAN PAYMENTS  
AND NOTICE OF HEARING;**

**HEARING DATE: 10/8/2009  
HEARING TIME: 10:00 am  
LOCATION: Court Rm. # 446  
38 S. Scott Ave. Tucson, AZ 85701**

**PLEASE READ THIS MOTION / NOTICE CAREFULLY**

**YOUR RIGHTS MAY BE ALTERED BY FAILING TO RESPOND**

Dianne C. Kerns, Trustee in the above-captioned estate, hereby moves the Court for an order dismissing the above-captioned case on the grounds that the Debtor is delinquent in one or more plan payments. **The amount of the delinquency is: \$2,669.00.** THE TRUSTEE HEREBY GIVES NOTICE THAT A HEARING WILL BE HELD AT THE TIME AND PLACE NOTED ABOVE, UNLESS THE DEBTOR DOES ONE OF THE FOLLOWING WITHIN THIRTY(30) DAYS OF THE MAILING OF THIS MOTION:

- (a) **Make payment to the Trustee of the full amount stated as delinquent and all payments which subsequently come due.** (1)
- (b) File with the Court, and serve a copy on the Trustee, a notice of conversion to Chapter 7;  
or
- (c) File with the Court, and serve a copy on the Trustee, a motion for moratorium of the delinquent plan payments.

**Please note that filing a motion to extend time to comply with the Trustee's Motion to Dismiss will not excuse attendance at the scheduled hearing (unless an order granting the motion for extension has been entered prior to the hearing).**

Dated: August 31, 2009

/s/ Dianne C. Kerns 011557

Dianne C. Kerns, Esq.  
Chapter 13 Trustee

CASE NO.: 09-05175-TUC-EWH

Copy of the foregoing was electronically filed with U.S. Bankruptcy Court this August 31, 2009

All parties will receive notice from the court including the following:

BARRY WEISBAND  
5424 E PLACITA APAN  
TUCSON, AZ 85718

RONALD RYAN  
RONALD RYAN PC  
1413 E HEDRICK DR  
TUCSON, AZ 85719-2633

Submitted By Betty Norton

**1** Payments should be mailed to Dianne C. Kerns, Trustee, P.O. Box 366, Memphis, TN 38101-0366. Cashier's checks or money orders only. To insure sufficient time for all timely payments to be posted, the Trustee will review this case 40 days after the mailing of this motion. THE ENTIRE DELINQUENCY MUST BE CURED. A partial payment will not suffice. Additional payments will become due in the time period allowed to cure the plan default; these additional payments must be paid to fully cure your plan default.

LRBP 2084-17 provides as follows:

"If the court dismisses a case on motion of the case trustee, the court may grant a motion to reinstate the case without a hearing if the case trustee approves the proposed reinstatement order. If the case trustee does not approve the order, the debtor may set the matter for hearing. The court may set a hearing on the motion to reinstate on request of an interested party who had joined the case trustee's dismissal motion."

As a general matter, the Trustee will approve the proposed reinstatement order if the plan payments are current and there are no other impediments to confirmation.

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<b>RECEIPT HISTORY</b>			
<b>RECEIPT DATE</b>	<b>RECEIPT SOURCE</b>	<b>RECEIPT DESCRIPTION</b>	<b>RECEIPT AMOUNT</b>
Jul 06, 2009	20132	EMPLOYER PAYROLL DEDUCTION CHECK	4,169.00
<b>TOTAL RECEIPTS</b>			<b>4,169.00</b>