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ex rel. Arizona Department of Revenue

IN THE UNITED STATES BANKRUPTCY COURT
IN AND FOR THE DISTRICT OF ARIZONA

In re:

Ronald Stephen Owens,
SSN: XXX-XX-6688

Elizabeth Ann Naylor,
SSN: XXX-XX-3273

Debtors.

Chapter 13

Case No. 2:25-bk-07596-PS

**OBJECTION TO CONFIRMATION OF
ORIGINAL CHAPTER 13 PLAN**

Docket No. 2

The State of Arizona *ex rel.* Arizona Department of Revenue (the “**Department**”) objects to the *Original Chapter 13 Plan* (the “**Plan**”) filed by Ronald S. Owens and Elizabeth A. Naylor (the “**Debtors**”) on August 4, 2025 as follows:

1. The Department is the agency empowered and entitled to enforce Arizona tax laws and regulations, including but not limited to individual income taxes, transaction privilege taxes (“**TPT**”) and withholding taxes (“**WTH**”). A.R.S. §§ 43-208; 42-1004 *et seq.*; 43-101 *et seq.*

BCE25-02420

1 2. The Debtors are individuals residing in the State of Arizona and upon information and
2 belief are required to file and pay certain tax liabilities to the Department, including individual
3 income taxes. *See* A.R.S. §§ 43-301, 43-501.

4 3. Additionally, the Debtors own or owned a limited liability company known as Good
5 Luck Shop, LLC and is doing or did business as Good Luck Shop, LLC (the “**Debtors’**
6 **Business**”). Upon information and belief, the Debtors’ Business is or was required to file and
7 pay certain tax liabilities to the Department, including TPT taxes. Failure of the Debtors to
8 remit to the Department monies collected for TPT taxes may create responsible party penalties
9 being assessed against the Debtors personally pursuant to A.R.S. § 42-5028.

10 4. The Department filed a proof of claim establishing a secured claim in the amount of
11 \$0.00, a priority claim in the amount of \$4,364.00, and a non-priority unsecured claim in the
12 amount of \$0.00. A true and accurate copy of the Department’s Original Proof of Claim (the
13 “**Claim**”) dated August 19, 2025 is No. 1-1 on the Court’s Claims Register. In addition, the
14 Department’s Claim indicates that the Debtors are not current with the filing of all prepetition
15 tax returns. As of today, the following returns remain unfiled (the “**Outstanding Returns**”):

<u>Income</u>	2023 through 2024
<u>TPT</u>	4 th quarter 2024 and 1 st – 2 nd quarter 2025
<u>WTH</u>	<i>Not Applicable</i>

19 5. As indicated in the Department’s Claim, the Debtors have failed to file all tax returns as
20 required by 11 U.S.C. § 1308. Failure of the Debtors to file the Outstanding Returns constitutes
21 cause to convert or dismiss the case. *See* 11 U.S.C. § 1307(e), Local Rule of Bankruptcy
22 Procedure 2084-5. Moreover, the Plan cannot be confirmed until such time that the Debtors file
23
24
25
26

1 the Outstanding Returns. 11 U.S.C. § 1325(a)(9). Signed, dated, and non-redacted copies of the
2 returns with all federal form W-2s and Federal Schedule A, as applicable, may be sent to
3 Elissa.Ruiz@azag.gov, which the Department will accept as filed on the date that complete
4 return(s) are received by the Attorney General's Office.

5
6 6. The Department's Claim is entitled to priority treatment pursuant to 11 U.S.C.
7 § 507(a)(8)(A). The Plan is required to provide payment in full of all priority claims, unless the
8 claimant agrees otherwise. 11 U.S.C. § 1322(a)(2). Here, the Department has not agreed to
9 different treatment than what Section 1322 requires and the Plan does not provide for the full
10 payment of the Department's priority claim. Therefore, the Plan cannot be confirmed. 11 U.S.C.
11 § 1325(a)(1).

12
13 7. The Department's Claim consists of liabilities that were either: (1) filed late and within
14 two years of the current bankruptcy; or (2) may be filed after the commencement of this
15 bankruptcy. These obligations are non-dischargeable under the "Two Year Rule" and the
16 Department requests that language is included within an order of confirmation to clarify as
17 such. 11 U.S.C. §§ 523(a)(1)(B)(ii), 1328(a)(2), 1322(b)(11), *In re Savaria*, 317 B.R. 395
18 (B.A.P. 9th Cir. 2004). The Department suggests the following:

19
20 To the extent that the Arizona Department of Revenue's non-dischargeable liabilities are not
21 paid in full through pro rata distributions under the Debtors' Plan or through direct payments
22 outside of the Plan, the unpaid balance along with post-petition and post-confirmation interest
shall **not** be discharged in accordance with 11 U.S.C. §§ 523(a)(1)(B)(ii) and 1328(a).

23 8. Upon the filing of the petition for relief, the Debtors became debtors in possession and
24 are acting as a trustee with limited powers. 11 U.S.C. §§1303, 1304. *See also In re DiSalvo*, 219
25 F.3d 1035, 1039 (9th Cir. 2000); *In re Cohen*, 305 B.R. 886, 897 (B.A.P. 9th Cir. 2004). As
26 such, the Debtors are required to "manage and operate property in [their] possession"

1 “according to the laws to the state in which property is located.” 28 U.S.C. §§959(b) and 960.
2 The Debtors are members of the Debtors’ Business Good Luck Shop, LLC, which under
3 Arizona law has a duty and a requirement to prepare and timely file TPT returns showing the
4 amount that the Debtors’ Business is liable for and to timely remit all amounts owed to the
5 Department. A.R.S. §§42-5014(G), 43-401. Therefore, pursuant to 28 U.S.C. §§959(b) and 960,
6 the Debtors also have this duty and requirement while in bankruptcy. However, the Debtors
7 have not complied with the requirements of 28 U.S.C. §§959(b) and 960 and their duties as
8 debtors in possession by failing to timely file all post-petition TPT returns and pay all amounts
9 owed associated with the Debtors’ Business. Therefore, the Plan cannot be confirmed until the
10 Debtors have remedied the post-petition defaults. 11 U.S.C. §1325(a)(1).
11

12
13 9. The Department does not waive its right to a confirmation hearing under 11 U.S.C. §
14 1324(b) and reserves the right to amend, supplement, or withdraw its Objection to
15 Confirmation.
16

17 Conclusion

18 In order to confirm the Plan, the Debtors must address and remedy the objections
19 specified herein in order to comply with the Bankruptcy Code. Since the Plan, as it is currently
20 proposed, does not comply with 11 U.S.C. § 1325 and other provisions of the Bankruptcy Code
21 as stated herein, the Plan cannot be confirmed.
22

23 REQUEST FOR RELIEF

24 **WHEREFORE**, the Department prays as follows:

25 1. That the Court deny confirmation of the proposed Plan, or in the alternative, that
26 the Debtors are ordered to amend or modify the Plan to remedy the Department’s objections

1 herein;

2 2. That the failure of the Debtors to amend or modify the Plan to remedy the
3 Department's objections herein and conform the Plan with the Bankruptcy Code in a reasonable
4 time, that the Court dismiss or convert this case to a Chapter 7; and
5

6 3. For such other and further relief as this Court deems proper.

7 RESPECTFULLY SUBMITTED this 20th day of October, 2025.

8 KRISTIN K. MAYES
9 Attorney General

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11 _____
12 /s/ Bradley J. Stevens
13 Assistant Attorney General
14 Attorney for the State of Arizona
ex rel. Arizona Department of Revenue

15 ORIGINAL of the foregoing filed electronically this 20th day of October, 2025 with the United
16 States Bankruptcy Court District of Arizona

17 COPY of the foregoing sent by email* this 20th day of October, 2025 to:

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23 *Chapter 13 Trustee*

24
25 _____
26 /s/ Elissa Ruiz