

**REVIEW OF BANKRUPTCY FILINGS**

*Elizabeth Guzman*

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## SUMMARY

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### **Guzman has been involved in 2 bankruptcies:**

1) **A solo Chapter 13 filing in 2009 that concluded in 2011:** As part of the plan, she was forced to surrender a property in Woodbridge. Her liabilities were over \$1.2 million. Court documents indicate that at several times, Guzman was in violation of the bankruptcy plan. She defaulted on a payment to one creditor and was in arrears to another. At another point, the trustee filed for the case to be dismissed because Guzman had violated the requirement to provide copies of her income tax returns. In a later filing, the trustee again filed a motion to dismiss the Chapter 13 case, claiming material default by Guzman.

- **About Chapter 13:** “Chapter 13 is a reorganization bankruptcy designed for debtors with regular income who can pay back at least a portion of their debts through a repayment plan. If you make too much money to qualify for Chapter 7 bankruptcy, you may have no choice but to file a Chapter 13 case.”  
(<http://www.nolo.com/>)

2) **A joint Chapter 7 filing with her husband in 2014:** The Chapter 7 filing resulted in the surrendering of a timeshare in Boca Raton, Florida. \$492,068 in total assets were surrendered under the Plan, while they had over \$1 million in liabilities.

- **About Chapter 7:** “Chapter 7 is a liquidation bankruptcy designed to wipe out your general unsecured debts such as credit cards and medical bills. To qualify for Chapter 7 bankruptcy, you must have little or no disposable income... Chapter 7 bankruptcy is typically for low-income debtors with little or no assets who want to get rid of their unsecured debts.”  
(<http://www.nolo.com/>)

## DOCUMENT HIGHLIGHTS

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### 2014, Chapter 7 – Jointly with her husband/liquidation (2/14/14-6/9/14)

- Surrendered timeshare in Boca Raton, FL (File 18-2b) to Bluegreen Corp.
- Assets Abandoned: \$492,068; Assets Exempt: \$16,905.87; Claims Scheduled: \$1,038,179.05
- Only six files were provided for review in their entirety

### 2009, Chapter 13 – Sole debtor/reorganization (7/8/09-6/13/11)

- **Defaulted on payment plan to Apple Federal Credit Union (File 29)**
- Surrendered property at 2558 Chadwick Court, Woodbridge, VA 22192 to allow for foreclosure/sale by Apple Federal Credit Union (File 34)
- **Trustee filed for the case to be dismissed because debtor violated the requirement to provide copies of federal and state tax returns (File 61)**
- **Modified plan was filed in 2011 (File 68), but the trustee objected, saying it did not require enough funding to be paid**
- **Trustee filed motion to dismiss Chapter 13 case, claiming “Violation of 11 U.S.C. §1307(c)(6) - Material default by Debtor as is reflected in the attached Trustee’s Report of Receipts and Disbursements.” (File 71)**
  - Motion to dismiss was subsequently withdrawn after Apple Federal Credit Union amended its filed proof of claim (File 72)
- Case was dismissed on 6/13/11 (File 81)

## DOCUMENTS IN-DEPTH

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### Chapter 7 Bankruptcy (2014)

#### File 1b

Case: 14-10536-BFK

Court: U.S. Bankruptcy Court Eastern District of Virginia

Debtors: Elizabeth and Carlos Guzman

Date Filed: 7/20/09

Date Voluntary Petition Signed: 2/14/14

Type: Chapter 7

- Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.
- 1-49 creditors
- Estimated Assets: \$500,001 to \$1 million
- Estimated Liabilities: \$500,001 to \$1 million

#### File 5b

Case: 14-10536-BFK

Listing of creditors

#### File 18-1b

Case: 14-10536-BFK

Statement of Financial Affairs

- Details of FY2013 and FY2014 joint income totaling approx. \$91,651 from Fairfax County Government, LiaSophia jewelry (Bookkeeper), C&R Carpentry (Bookkeeper), Caliz Tile
- **Garnishment from Apple Federal Credit Union**
- Claims jewelry was stolen out of their car in May 2013

#### File 18b

Case: 14-10536-BFK

Summary of schedules

- **Assets: \$508,973**
- **Total Liabilities: \$1,038,179**
- Details on all assets
- **List of creditors holding unsecured nonpriority claims (total: \$334,333.50)**
  - Citibank, Dish Network, Great Lake Borrowers (student loans), LA Fitness, NCO Financial (cable services), Sallie Mae (student loans), Sprint PCS, Strayer University (registration fee)
- Gross monthly income: \$5,172.03

- Estimated monthly expenses: \$7,655.79

### **File 18-2b**

Case: 14-10536-BFK

Chapter 7 Individual Debtor's Statement of Intention

- Debt to Ally Financial Services secured by 2013 GMC Terrain
- Debt to Bluegreen Corp. secured by the surrendering of a timeshare in Boca Raton, Fl.
- Debt to Capital One Mortgage secured by the property at 13211 Quate Lane, Woodbridge, Virginia 22193
- See 18b: \$211,777.55 not secured by these properties

### **File 19**

Case: 14-10536-BFK

Chapter 7 Statement of Current Monthly Income and Means-Test Calculation

### **File 21**

Case: 14-10536-BFK

Chapter 7 Trustee's Report

Document not reviewed; information pulled from cover memo on filings

- Assets Abandoned (without deducting any secured claims): \$ 492,068.00
- Assets Exempt: \$16,905.87
- Claims Scheduled: \$1,038,179.05

## **Chapter 13 Bankruptcy (2009)**

### **File 1**

Case: 09-15432-BFK

Court: U.S. Bankruptcy Court Eastern District of Virginia

Type: Chapter 13

Filed: 7/9/09

Debtor: Elizabeth Talley

- **Estimated Assets: \$100,001 to \$500,000**
- **Estimated Liabilities: \$1,000,001 to \$10 million**
- **Total for creditors holding unsecured nonpriority claims: \$230,992.00**

### **File 10**

Case: 09-15432-BFK

MOTION FOR EXTENSION OF TIME TO FILE CHAPTER 13 PLAN AND SCHEDULES

**File 14**

Case: 09-15432-BFK

Summary of Schedules

- **Assets: \$437,350**
- **Total Liabilities: \$1,265,576**

**File 15**

Case: 09-15432-BFK

Chapter 13 Plan and Related Motions

Dated: 7/30/09

- Funding of Plan. The debtor(s) propose to pay the trustee the sum of \$1,600.00 Monthly for 55 months. The total amount to be paid into the plan is \$88,000.00

**File 20**

Case: 09-15432-BFK

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

- Filed by Apple Federal Credit Union re: 2558 Chadwick Court, Woodbridge, VA 22192
- “Apple FCU is currently owed by the Debtor under the Note the principal sum of \$272,857.56 plus interest, late charges, attorney's fees and costs.”
- “Debtor is delinquent for the months August, 2009 and September, 2009, at the rate of \$1,244.71 per month, for a total of \$2,489.42 plus attorneys' fees, costs and late charges.”

**File 28**

Case: 09-15432-BFK

CONSENT ORDER MODIFYING THE AUTOMATIC STAY

- **“...the Debtor is four months in arrears under the Note in the amount of \$4,976.68, (for July 1, 2009 through October 1, 2009 at the rate of \$1,244.71 per month)”**
- Lays out schedule for payment by 4/15/10 for 2001 GMC Light Duty Yukon

**File 29**

Case: 09-15432-BFK

**Notice of default on \$2,489 payment on 11/1/09 for 2001 GMC Light Duty Yukon XL**

**File 34**

Case: 09-15432-BFK

CONSENT ORDER VACATING ORDER MODIFYING STAY, DOCKET NUMBER 28,  
AND TERMINATING THE AUTOMATIC STAY

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Classification: CONFIDENTIAL

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- Debtor surrendered property at 2558 Chadwick Court, Woodbridge, VA 22192 to allow for foreclosure/sale

### **File 38-1**

Case: 09-15432-BFK

Mortgage Loan Modification Agreement with Capital One for the property at 13211 Quate Lane, Woodbridge, Virginia 22193

- Loan term extended until 2050 (originally 2037)
- Forbearance amount: \$93,814.86
- Later modified so payments to Capital One were not made through the chapter 13 plan (File 66)

### **File 38**

Case: 09-15432-BFK

Court order approving mortgage loan modification agreement

- Under agreement, monthly mortgage agreement decreased from \$5,087.00 to \$2,499.16

### **File 41**

Case: 09-15432-BFK

Motion for relief from the automatic stay filed by GMAC

- Related to a 2007 Chevrolet Express Van
- Outstanding obligation \$10,976.62
- Did not make payment January 2, 2010 through March 2, 2010
- Husband was later added to the stay

### **File 50**

Case: 09-15432-BFK

Consent order granting relief from stay – approving GMAC’s request

- Required monthly payments of \$438.50 beginning on 6/2/10

### **File 61**

Case: 09-15432-BFK

Motion To Dismiss, Notice Of Motion To Dismiss And Notice Of Scheduled Hearing On This Motion

Filed 10/21/10

- **Trustee filed to dismiss Chapter 13 case because of “Violation of 11 U.S.C. §521(4) – Failure of the Debtor to provide copies of her federal and state income returns for the tax year 2009 to the Office of the Chapter 13 Trustee.**
- Motion was subsequently withdrawn on 11/30/10 (File 64)

### **File 68**



Case: 09-15432-BFK

Chapter 13 Plan – Amended and Related Motions

Filed 3/9/11

- \$48,514.00 total to be funded by the plan; lowered amount to be paid into the plan
- Surrendering of property at 2558 Chadwick Court, Woodbridge, VA 22192, valued at \$145,000, for Apple Federal Credit Union and Bank of America

### **File 69**

Case: 09-15432-BFK

Objection To Confirmation Of Modified Plan, Notice Of Objection To Confirmation Of Modified Plan

Filed 3/16/11

- **Chapter 13 trustee filed an objection to the modified plan (File 68) because it “shows no basis for lowering amount being paid into the Plan. Plan is funded in the amount of \$48,514.00 and requires funding in the amount of \$56,336.02 due to the arrears that have already been paid to Chevy Chase Bank.”**

### **File 71**

Case: 09-15432-BFK

Motion to Dismiss

Filed 4/13/11

- **Trustee filed motion to dismiss Chapter 13 case, claiming “Violation of 11 U.S.C. §1307(c)(6) - *Material default by Debtor* as is reflected in the attached Trustee’s Report of Receipts and Disbursements.”**

### **File 72**

Case: 09-15432-BFK

Withdrawal

- Trustee subsequently filed a motion to dismiss his objection to the plan after Apple Federal Credit Union amended its filed proof of claim (File 72)

### **File 80**

Case: 09-15432-BFK

Order of Dismissal

File 6/13/11

- Dismissing Chapter 13 case as “it is in the best interest of the creditors and this estate that this proceeding be dismissed”