

1 Russell A. Brown  
2 CHAPTER 13 TRUSTEE  
3 P.O. Box 33970  
4 Suite 800  
5 3838 North Central Avenue  
6 Phoenix, Arizona 85067-3970  
7 602.277.8996  
8 Fax 602.253.8346

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re  
MICHAEL T. HERZOG,

In Proceedings Under Chapter 13  
Case No. 05-14971 PHX RJH

Debtor.

**TRUSTEE'S RECOMMENDATION**

The Trustee has reviewed the Motion for Moratorium, filed July 12, 2006.

Trustee notes the following problems, which must be resolved prior to confirmation of the Moratorium and Plan:

1. The debtor requests a payment moratorium for the months of July through September 2006 due to reduction in real estate sales income. However, the motion fails to provide specific information as to how the omitted Plan payments will be compensated. The Order confirming the Plan and Motion must specify the amounts of the Plan payment increases which will be made.

2. The debtor has relocated as a result of the sale of his real property. The Trustee requires that the debtor file a change of address with the Court and provide a copy to the Trustee.

3. The Trustee requires that Schedules I and J be amended, to include changes in shelter and utility costs as a result of the move. In addition, the changes must address the issues raised by the Trustee in Items #1, #2, #3 and #4 of the Trustee's Recommendation dated January 3, 2006. In addition, income verification must be provided for the Months of June, July and August 2006.

4. As of the date of this Recommendation, the Trustee has been provided a copy of the pre-audit statement only from sale to date. The Trustee the requires a copy of the final escrow settlement statement.

5. The Trustee requires that any Order confirming the Plan and motion include the provision that Saxon Mortgage has been paid through the sale of the property.

1           6.       The Trustee renews his request that the Statement of Financial Affairs, #16, be  
2 amended to provide the required spousal information.

3           7.       The Trustee requires copies of the debtors 2005 federal and state tax returns.

4           8.       Any Order confirming the Plan must comply with the provisions of the Trustee's  
5 Memorandum dated March 19, 1998 (copy enclosed or previously submitted to counsel). The tax  
6 years are 2005 and 2006. The time to submit a proposed Order to the Trustee is extended to 15 days  
7 after the conclusion of any objection to proof of claim or objection to confirmation.

8           9. Other requirements:

9               (a) Due to the possibility of errors on the claims docket, it is the attorney's  
10 responsibility to review all proofs of claim filed with the Court and resolve any discrepancies  
11 between the claims and the Plan prior to submitting any proposed Order Confirming Plan to the  
12 Trustee.

13               (b) Requests by the Trustee for documents and information are not superseded by the  
14 filing of an amended plan or motion for moratorium.

15               (c) The Trustee will object to any reduction in the Plan duration or payout in a  
16 proposed Order Confirming Plan unless an amended or modified plan is filed and noticed out.

17               (d) The Trustee requires that any proposed Order Confirming Plan state: "The Plan  
18 and this Order shall not constitute an informal proof of claim for any creditor."

19           **Plan payment status:** The debtor's interim payments are current through June 16, 2006. A  
20 payment moratorium has been requested for July, August and September 16, 2006. Subsequent  
21 payments of \$1,703.00 must be received in the Trustee's office not later than October 16, 2006.

22 **SUMMARY**

23           **Pursuant to the Court's Order Re: Procedures for Confirmation of Plans, paragraph**  
24 **E.(2), the Debtor must provide the following by September 26, 2006 or the Trustee will lodge**  
25 **an order dismissing the case:**

26               (a) All information and documents as requested in Items #2, #3, #4, #6 and #7 above.

27           **The Court may dismiss the case without further notice for the Debtor's failure to timely**  
28 **comply with the Trustee's Recommendation.** If the Debtor meets all requirements of the

1 Recommendation and this case remains active, Debtor's counsel must submit to the Trustee for  
2 review and signature, a proposed stipulated Order Confirming the Plan and Motion for Moratorium,  
3 signed by all objecting parties, which incorporates the requirements of this Recommendation, no  
4 later than September 26, 2006. The Trustee considers the time for reviewing a proposed Order  
5 pursuant to Rule 2083-7(a), L.R.B.P., to begin running when all Recommendation conditions are  
6 met.

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8  
9 /s/ Russell Brown  
Russell A. Brown ABN 10173  
Chapter 13 Trustee

10  
11 A copy of the foregoing was  
12 mailed on the date stated below to:

13 Michael Herzog  
14 7119 E. Shea Blvd  
15 Scottsdale, AZ 85245  
16 Debtor(s)

17 Wade F. Waldrip  
18 Sampair & Waldrip  
19 8671 W. Union Hills Dr., Suite 502  
20 Peoria, AZ 85382  
21 Attorney for Debtor(s)

22  
23  
24  
25  
26  
27  
28 /s/ Cheryl L. Turner 0116  
cherylturner@ch13bk.com