

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :
DAVID S. KEACH : BK No.98-10549
Debtor : Chapter 13

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ORDER

Before the Court is the January 27, 2000 Order of the Bankruptcy Appellate Panel for the First Circuit reversing our order denying confirmation, and remanding the case to this Court with instructions to conduct "further proceedings consistent with this decision." See *In re Keach*, BAP No. RI 99-055, slip op. at 36 (B.A.P. 1st Cir. January 27, 2000). After several conferences with the parties, after a status hearing, and upon consideration of the arguments, we conclude that an evidentiary confirmation hearing is required. We also rule, as a matter of law, that the facts as of the date of confirmation control, and not those at the date of filing.¹ In the absence of authority for the position taken by either party on this issue, the law of this case is that findings requisite for confirmation of a Chapter 13 plan must be made as of the confirmation hearing, and that based on the passage of time between the date of the original hearing and today (eighteen months), a new hearing on confirmation must be conducted. Implicit in this ruling is the

¹ While we have attempted to obtain supporting case law for this conclusion, we have found none.

DENIAL of the Debtor's request to submit a brief suggesting that an evidentiary hearing is not required.

With an eye toward a hearing at the earliest possible time in this 1998 case, the following schedule is set:

- (1) the discovery deadline for all parties is July 31, 2000;
- (2) A Joint Pre-Trial Order shall be filed on or before August 15, 2000; and
- (3) Confirmation is scheduled for hearing on August 22, 2000, at 10:00 a.m.

ORDER:

ENTER:

/s/ Arthur N. Votolato

Deputy Clerk

Arthur N. Votolato
US Bankruptcy Judge
Date: June 23, 2000

Entered on Docket:
Document Number: