UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

September 19, 2016 at 10:00 a.m.

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1. 15-29136-A-12 MAS-5 — P&M SAMRA LAND INVESTMENTS LLC — MOTION TO CONTINUE HEARING O.S.T. 9-6-16 [312]

Tentative Ruling: The motion will be granted.

Creditor Ag-Seeds Unlimited seeks continuance of the October 3, 2016 hearing on the debtor's plan confirmation motion because counsel for Ag, Mark Serlin, starts a trial in Placer County on the morning of October 3.

The court will grant the continuance. Given the long dispute between the parties and given Mr. Serlin's long-term involvement with that dispute, his presence is required at the plan confirmation hearing to fairly and adequately represent Ag's interests in this case. The motion will be granted and the hearing on the plan confirmation motion will be continued.

2. 10-50444-A-13 16-2154 HAZEL V. HAZEL — GERALD/SAMANTHA HAZEL DMB-1 — MOTION TO APPROVE SETTLEMENT 8-11-16 [7]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of any party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The parties, including the plaintiff Helen Hazel and the defendant Gerald Hazel, seek approval of a stipulation resolving a dispute over a $10,000 claim ordered by the state court presiding over the parties' divorce proceeding. The state court ordered that the defendant pay $10,000 to the plaintiff for her attorney's fees incurred in connection with the divorce action. When the defendant filed the underlying bankruptcy case, he listed the $10,000 debt as owed directly to the plaintiff's counsel.

Under the terms of the settlement agreement, the parties stipulate that the $10,000 debt is owed directly to the plaintiff and the debt is nondischargeable. The court will approve the stipulation.

3.	15-21575-A-11 HLC-19	BR ENTERPRISES, A CALIFORNIA PARTNERSHIP	MOTION TO REOPEN CASE, ENTRY OF DISCHARGE AND FOR FINAL DECREE AND ORDER CLOSING CASE 8-22-16 [280]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The revested debtor seeks an order reopening the case, entering its chapter 11 discharge pursuant to 11 U.S.C. § 1141(d), reaffirming the previously issued final decree, and then reclosing the case.

The court can reopen a case to "accord relief to the debtor." 11 U.S.C. § 350(b). Motions for the reopening of cases should be "routinely granted because the case is necessarily reopened to consider the underlying request for relief." In re Dodge, 138 B.R. 602, 605 (Bankr. E.D. Cal. 1992) (citing In re Corgiat, 123 B.R. 388, 392, 393 (Bankr. E.D. Cal. 1991)).

The case will be reopened to permit the court to adjudicate the remainder of this motion.

Under section 1141(d)(1)-(3):

"*(1) Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan-*

"*(A) discharges the debtor from any debt that arose before the date of such confirmation, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of this title, whether or not-*

"*(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title;*

"*(ii) such claim is allowed under section 502 of this title; or*

"*(iii) the holder of such claim has accepted the plan; and*

"*(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.*"

"*(2) A discharge under this chapter does not discharge a debtor who is an individual from any debt excepted from discharge under section 523 of this title.*

"*(3) The confirmation of a plan does not discharge a debtor if-*

"(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

"(B) the debtor does not engage in business after consummation of the plan; and

"(C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title."

The court entered an order confirming the debtor's chapter 11 plan on December 1, 2015. The court entered a final decree and closed the case on February 22, 2016.

The debtor has fulfilled all its obligations under the confirmed chapter 11 plan. From the sale of a real property, it has paid all impaired creditors in accordance with the terms of the plan.

The plan does not provide for the liquidation of all or substantially all estate property. The debtor continues to engage in business after consummation of the plan and, as the debtor is not an individual, it would not be denied a discharge under section 727(a) of this title if this were a case under chapter 7. Section 1141(d)(2) does not apply either; the debtor is a partnership. The court then will grant the debtor's discharge under section 1141(d). The court will also reaffirm the final decree and the case will be reclosed. The motion will be granted.

4. 16-21585-A-11 AIAD/HODA SAMUEL — STATUS CONFERENCE 3-15-16 [1]

Tentative Ruling: None.

5. 16-21585-A-11 AIAD/HODA SAMUEL — MOTION TO ABANDON 9-2-16 [250]
FWP-10

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The chapter 11 trustee wishes to abandon the estate's interest in three real properties in Sacramento, California, including 180 Prairie Circle, 186 Prairie Circle, and 6924 Pony Trail Way.

11 U.S.C. § 554(a) provides that a trustee may abandon any estate property that is burdensome or of inconsequential value or benefit to the estate, after notice and a hearing.

180 Prairie Circle has a value of approximately $150,000 and it is subject to

encumbrances totaling approximately $145,000, including a single mortgage in favor of The Bank of New York Mellon. After taking into account administrative costs, such as sale costs that are typically 8% of the purchase price, or approximately $12,000 in this case, the estate has no equity to realize from the property.

186 Prairie Circle has a value of approximately $150,000, whereas it is subject to encumbrances totaling approximately $225,556, including a mortgage in favor of The Bank of New York Mellon for approximately $145,310 and another mortgage in favor of JPMorgan Chase Bank for approximately $80,246.

6924 Pony Trail Way has a value of approximately $160,000, whereas it is subject to encumbrances totaling approximately $217,436, including a mortgage in favor of The Bank of New York Mellon for approximately $139,432 and another mortgage in favor of Washington Mutual Bank for approximately $78,003.

Given that the trustee cannot realize equity for the estate from any of the properties, they are of inconsequential value. They are also burdensome because the estate is required to maintain payments of taxes and insurance, among others, while retaining the properties for administration. Accordingly, the motion will be granted and the properties ordered abandoned.