

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: SEPTEMBER 9, 2015
CALENDAR: 1:30 P.M. CHAPTER 11 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [15-12827](#)-A-11 BLUEGREENPISTA CONTINUED STATUS CONFERENCE RE:
ENTERPRISES, INC. VOLUNTARY PETITION
7-18-15 [[1](#)]

DAVID JENKINS/Atty. for dbt.

No tentative ruling.

2. [15-12827](#)-A-11 BLUEGREENPISTA MOTION FOR RELIEF FROM
HRH-1 ENTERPRISES, INC. AUTOMATIC STAY
STATE BANK OF INDIA 8-4-15 [[19](#)]
(CALIFORNIA)/MV
DAVID JENKINS/Atty. for dbt.
STEPHEN JENKINS/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

3. [01-17857](#)-A-9 ALTA HEALTHCARE DISTRICT MOTION FOR ENTRY OF FINAL
WW-1 DECREE AND/OR MOTION TO CLOSE
CLIFFORD BRESSLER/MV CASE
8-12-15 [[561](#)]

DAVID JENKINS/Atty. for dbt.

Final Ruling

This matter is continued to September 30, 2015, at 2:30 p.m. pending designation of a new judge. Bankruptcy judges in Chapter 9 cases must be designated by the Circuit. 11 U.S.C. § 921(b). The administrative order transferring this case from the Honorable Whitney Rimel to the Honorable Fredrick E. Clement was made in error and not in compliance with 11 U.S.C § 921(b). The Circuit will designate a new judge for the hearing of this matter, and once it has done so, the matter may be heard or renoticed for the appropriate calendar as is appropriate.

4. [15-12885](#)-A-11 ARS INVESTMENT GROUP, CHAPTER 11 STATUS CONFERENCE
LLC RE: VOLUNTARY PETITION
7-22-15 [[1](#)]

JUSTIN HARRIS/Atty. for dbt.

No tentative ruling.

5. [14-11991](#)-A-11 CENTRAL AIR MOTION FOR FINAL DECREE AND
KDG-32 CONDITIONING, INC. ORDER CLOSING CASE
CENTRAL AIR CONDITIONING, 8-7-15 [[523](#)]
INC./MV
HAGOP BEDOYAN/Atty. for dbt.

Final Ruling

Motion: Enter Final Decree Closing Chapter 11 Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Under § 350(a) and Federal Rule of Bankruptcy Procedure 3022, the court must enter a final decree closing a case when the estate has been "fully administered." 11 U.S.C. § 350(a); Fed. R. Bankr. P. 3022. "However, neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure define the term 'fully administered.'" See *In re Ground Sys., Inc.*, 213 B.R. 1016, 1018 (B.A.P. 9th Cir. 1997) (denying motion for entry of final decree because debtor's plan required estate to remain open pending completion of plan payments and such a plan requirement did not run afoul of the Code and Federal Rules of Bankruptcy Procedure).

The Advisory Committee Note to Rule 3022 lists a number of factors for courts to consider in determining whether the estate has been fully administered. See Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. These factors present a court with "flexibility in determining whether an estate is fully administered," and "not all of the factors . . . need to be present to establish that a case is fully administered for final decree purposes." *In re Provident Fin., Inc.*, Nos. MT-10-1134-JuPaD, MT-10-1135-JuPaD, Bankr. No. 09-61756, 2010 WL 6259973 (B.A.P. 9th Cir. Oct. 12, 2010) (unpublished opinion).

The Advisory Committee Note also states that entry of a final decree "should not be delayed solely because the payments required by the plan have not been completed." Fed. R. Bankr. P. 3022 advisory committee's note-1991 Am. It further provides that "[t]he court should not keep the case open only because of the possibility that the court's jurisdiction may be invoked in the future. A final decree closing the case after the estate is fully administered does not deprive the court of jurisdiction to enforce or interpret its own orders and does not prevent the court from reopening the case for cause pursuant to § 350(b) of the Code." *Id.*

Here, factors supporting a finding of full administration of the estate have been satisfied. The order confirming the plan has become final pursuant to Rule 8002 and payments under the confirmed plan have commenced. A number of one-time payments have been made as described in the motion, including the payments for administrative expenses,

priority wages and garnishment and employee benefit contribution claims, state taxes, other priority claims and administrative convenience claims. Payments toward unsecured creditors holding claims above \$1500 (Class 11) have commenced. All motions, other than this motion and a motion for stay relief, contested matters, and adversary proceedings have been resolved. No other factors listed in the advisory committee note have been contested by any creditor or party in interest.