

**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: OCTOBER 21, 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
ENTERPRISES, INC.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
7-18-15 [[1](#)]

DAVID JENKINS/Atty. for dbt.

No tentative ruling.

2. [13-17744](#)-A-11 SREP V, LLC
PLF-5
SREP V, LLC/MV
PETER FEAR/Atty. for dbt.

MOTION FOR FINAL DECREE AND
ORDER CLOSING CASE
9-9-15 [[284](#)]

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—the order confirming the plan was entered on March 17, 2015. The time for an appeal generally expires after 14 days after entry of the judgment, order or decree being appealed. Fed. R. Bankr. P. 8002(a).

Further, payments under the confirmed plan have commenced as described in the motion, and deposits required by the Plan have been distributed. Debtor has assumed the management of the property dealt with by the Plan. All motions, other than this motion, 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.

3. [15-10966](#)-A-11 RODNEY HARON

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION - -
CONVERTED TO CHAPTER 11 CASE
3-13-15 [[1](#)]

TIMOTHY SPRINGER/Atty. for dbt.

No tentative ruling.

4. [15-10966](#)-A-11 RODNEY HARON
UST-1

MOTION TO DISMISS OR CONVERT
CASE FROM CHAPTER 11
TO CHAPTER 7
9-23-15 [[87](#)]

TRACY DAVIS/MV
TIMOTHY SPRINGER/Atty. for dbt.
TERRI DIDION/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

5. [14-11595](#)-A-11 RAY FISHER PHARMACY,
INC.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-31-14 [[1](#)]

ALAN KINDRED/Atty. for dbt.

No tentative ruling.

6. [14-11595](#)-A-11 RAY FISHER PHARMACY,
PWC-7 INC.
RAY FISHER PHARMACY, INC./MV

ALAN KINDRED/Atty. for dbt.
WITHDRAWN

CONTINUED MOTION TO VALUE
COLLATERAL OF FRESNO COUNTY TAX
COLLECTOR
8-25-15 [[237](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.