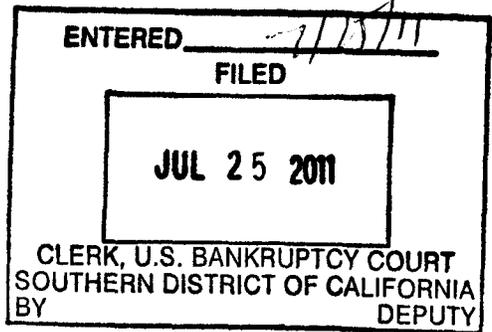


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WRITTEN DECISION – NOT FOR PUBLICATION



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:) BANKRUPTCY NO: 10-08358-MM11
)
) CHAPTER 11
ROBERT M. ROLLINS AND ROXANE L.)
ROLLINS,) MEMORANDUM DECISION RE
) APPLICATION FOR ENTRY OF FINAL
) DECREE
)
) DATE: July 21, 2011
) TIME: 3:00 p.m.
Debtors,) CRTRM: 1
) JUDGE: Margaret M. Mann

1 Robert M. and Roxane L. Rollins (the "Debtors") have petitioned the Court for entry of a final
2 decree to close their Chapter 11 case ("Petition"), subject to re-opening their case upon the completion
3 of all payments under their First Revised Chapter 11 Plan of Reorganization at 20, *In re Rollins*, No.
4 10-08358-MM1 (Bank. S.D. Cal. Nov. 20, 2010) ("Plan") to request a discharge order. In order to
5 issue a final decree in a Chapter 11 reorganization case, the Court must find that the estate has been
6 fully administered. Fed. R. Bankr. P. 3022. The Bankruptcy Code provides that once an "estate is
7 fully administered and the court has discharged the trustee, the court shall close the case." 11 U.S.C. §
8 350.

9 The sole objection to the Petition was filed by the United States Trustee ("UST"), whose
10 request for payment of its fees has become moot by payment. Because the Court finds that the estate
11 has been fully administered, the Court grants the Petition.

12 **I. BACKGROUND**

13 The Debtors filed for Chapter 11 bankruptcy on May 17, 2010. The Court ordered
14 confirmation of the Debtors' Plan on February 14, 2011, which became effective on February 25, 2011.
15 The Debtors remain employed and continue to operate their property returned to them as part of Plan
16 confirmation. The Plan provided for the repayment of several secured and unsecured creditors on a
17 monthly basis; these payments have commenced and are current. Two other secured creditors, Navy
18 Federal Credit Union ("NFCU") and Bank of America ("BoFA"), were to receive the property against
19 which their claims were secured in lieu of payments. By the time of the hearing on the Petition, BoFA
20 had taken possession of the 2007 Fleetwood Terra 34NBHLX ("RV") which served as the collateral for
21 its loan, as contemplated by the Plan.

22 In regards to NFCU's claim, the Debtors have sought to relinquish possession of a rental
23 property located at 1906 Monte Vista Drive, Vista, CA 92084 ("Monte Vista Property") by sending
24 NFCU's attorneys the payment of the cash collateral and the keys to the property. NFCU did not
25 object to the Plan, nor has it resisted the relinquishment of possession. NFCU has not foreclosed, nor
26 has it demanded the Debtors execute and deliver to them a deed of title of the Monte Vista Property.

27 There are no outstanding motions or adversary proceedings in this case.
28

1 **II. ANALYSIS**

2 **A. Entry of Final Decree**

3 Although the Code fails to define "fully administered," section 9.1 of the Plan defined "fully
4 administered" as "(1) the order confirming the Plan has become final; and (2) payments under the plan
5 have commenced." The Advisory Committee Notes to Rule 3022 list six different factors courts
6 "should consider in determining whether a case has been fully administered," including the two
7 identified in the Plan:

- 8 1. Whether the order confirming the plan has become final,
- 9 2. Whether deposits required by the plan have been distributed,
- 10 3. Whether the property proposed by the plan to be transferred has been
11 transferred,
- 12 4. Whether the debtor or the successor of the debtor under the plan has assumed
13 the business or the management of the property dealt with by the plan,
- 14 5. Whether payments under the plan have commenced, and
- 15 6. Whether all motions, contested matters, and adversary proceedings have been
16 finally resolved.

17 Fed. R. Bankr. P. 3022 advisory committee note (1991). The debtor is not required to fulfill all
18 six of these requirements before the case can be considered fully administered; instead, the court has
19 "flexibility in determining whether an estate is fully administered by considering [these] factors, along
20 with other relevant factors." *Nesselrode v. Provident Financial, Inc. (In re Nesselrode)* 2010 Bankr.
21 LEXIS 5047, 26 (B.A.P. 9th Cir. Oct. 12, 2010); *see also Graves v. Rebel Rents, Inc. (In re Rebel*
22 *Rents, Inc.)*, 326 B.R. 791, 804 n. 19 (Bankr. C.D. Cal. 2005). In fact, incomplete payments under the
23 plan should not, on their own, delay the entry of a final decree. Fed. R. Bankr. P. 3022 advisory
24 committee note (1991); *see also In re Mold Makers*, 124 B.R. 766, 768 (Bank. N.D. Ill. 1990).

25 Applying either the Plan definition or the suggested factors listed in the Advisory Committee
26 Note to Rule 3022, the Court finds that this case has been fully administered.

1. The order confirming that the Plan was final was entered on February 14, 2011.
2. The Plan did not require any deposits to be made.
3. The Plan required that the Monte Vista Property and the RV be transferred to the appropriate secured creditors. The Monte Vista Property has been returned to NFCU by delivery of the outstanding payment and keys to NFCU's attorneys. The Debtors have returned possession of the RV to BofA.
4. The order confirming the Plan restored the Debtors to possession of its assets.
5. Payments under the Plan have commenced and the Debtors are current on all payments.
6. There are no outstanding motions, contested matters, and adversary proceedings involving the Debtors, as all have been resolved by final orders.

Additionally, the Debtors have satisfied the two factors required by their definition of "fully administered" in their Plan: the order confirming the Plan is final and payments under the Plan have commenced. Although the Debtors have not yet completed all payments under the Plan, this factor is not one that would prevent the Court from issuing a final decree.

The reorganized debtor must continue paying quarterly UST fees until their case has either been converted or dismissed. 28 U.S.C. § 1930(a)(6). However, courts have uniformly held that "closure of a case after entry of a final decree is also an event that terminates quarterly fees because the existence of a case is a statutory precondition to the assessment of such fees." *United States Trustee v. Boulders on the River (In re Boulders on the River)*, 218 B.R. 528, 537 (Bankr. Or. 1997); *see also Rebel Rents*, 326 B.R. at 803.

B. ORDER

The Court orders the entry of the final decree for the Debtors' Chapter 11 case. The final decree closes this case and Debtors will not incur additional UST fees.

Dated: July 25, 2011


MARGARET M. MANN, JUDGE
United States Bankruptcy Court