United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar

Wednesday, December 14, 2016 **Hearing Room 5B**

10:00 AM
8:16-11790 Alain Azoulay **Chapter 11**

#1.00 United States Trustee's Motion to Dismiss Case Pursuant To 11 U.S.C. Section 1112(b)(4)(A) and (F); and Request for any Quarterly Fees Due and Payable to the U.S. Trustee at the Time of the Hearing
(cont'd from 11-02-16)

Docket 11

Tentative Ruling:

Tentative for 12/14/16:
The court glanced at the disclosure statement and plan. The court is not encouraged. Among other issues of concern is the proposal to cram down on the Bank at the Long Beach property at a 3% interest rate. This is woefully deficient. At least 6% begins to sound more reasonable. Also, what evidence do we have that the income levels necessary could possibly be achieved? Whether through rents or "investments," this appears very marginal.

No tentative.

_____
Tentative for 11/2/16:
Grant motion to dismiss.

Tentative for 8/24/16:
See #2.

Party Information

Debtor(s):

Alain Azoulay — Represented By Dana M Douglas

Movant(s):

United States Trustee (SA) — Represented By Frank Cadigan

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar

Wednesday, December 14, 2016 **Hearing Room 5B**

10:00 AM
8:15-13688 Annalysa Sylvie Rayburn **Chapter 11**

#2.00 STATUS CONFERENCE Re: Chapter 11 Voluntary Petition
(cont'd from 10-26-16)

Docket 1

Tentative Ruling:

Tentative for 12/14/16:
Continue to confirmation hearing at January 25, 2017.

_____

Tentative for 10/26/16:
Continue status conference to December 14, 2016 at 10:00 a.m. so that plan can be evaluated.

Tentative for 8/3/16:
Continue to October 26, 2016 at 10:00 a.m.

Tentative for 5/4/16:
Continue status conference for about 90 days, to come in at or shortly after confirmation.

Tentative for 1/6/16:
Has a disclosure statement hearing been scheduled yet?

Tentative for 10/28/15:
Status?

10:00 AM
CONT... **Annalysa Sylvie Rayburn** **Chapter 11**

Tentative for 9/2/15:
Deadline for filing plan and disclosure statement: November 30, 2015
Claims bar: 60 days after dispatch of notice to creditors advising of bar date.
Debtor to give notice of claims bar deadline by: September 14, 2015

Party Information

Debtor(s):

Annalysa Sylvie Rayburn — Represented By
Michael Jones

Movant(s):

Annalysa Sylvie Rayburn — Represented By
Michael Jones

10:00 AM
8:14-16592 Miguel Angel Ibarra and Graciela Arana de Ibarra **Chapter 11**

#3.00 Motion by Reorganized Debtors for Entry of Discharge and Entry of Final Decree

Docket 206

Tentative Ruling:

This is Debtors Miguel and Graciela Ibarra's (collectively "Debtors") motion for entry of discharge and entry of final decree. Debtors filed a chapter 13 petition on November 7, 2014, with the case converted to chapter 11 on January 21, 2015. No trustee was appointed in the case. On April 7, 2016, the court entered an order confirming Debtor's first amended plan. The confirmation order was not appealed, and no stay of implementation of the plan was sought or obtained by any creditor or interested party. The effective date of the plan was April 21, 2016, with payments beginning on May 1, 2016.

Debtors argue that a discharge under 11 U.S.C. 1145(d)(5)(B) is warranted. According to Debtors, they have made all plan payments and the unsecured creditors have received more under the plan (23.71% of their claims) than what they would have received had the estate been liquidated (11.26%). In addition, Debtors state that all payments to unsecured creditors have been made, with payments totaling $53,009.07. However, Debtors acknowledge that some checks sent to unsecured creditors have not been cashed (this amount totals approximately $3,658.74 between 16 unsecured creditors). It is unclear from Debtors' motion whether this is because they are unable to locate the creditors, or whether creditors have simply not cashed the checks.In arguing why the court should enter an order for final decree, the Debtors report that their case has been fully administered. Debtors point to the following facts in their motion: (1) the confirmation order was entered and is now final; (2) Debtors' assets have transferred to Reorganized Debtors; (3) payments under the plan have commenced and been finalized, there no related motions or other litigation related to the case pending nor anticipated; (4) and that Debtors have met all of their obligations under the Code.

10:00 AM
CONT... Miguel Angel Ibarra and Graciela Arana de Ibarra **Chapter 11**
1. Discharge

Generally, an individual debtor must complete all plan payments to receive a discharge in a chapter 11 case. 11 U.S.C. § 1141(d)(5)(A). However, Section 1141(d)(5)(B) provides that the court may grant a discharge to an individual debtor that has not completed all plan payments provided that the "value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date," that modification is not "practicable," and that the debtor has not been convicted of a felony nor is debtor in a proceeding where debtor might be convicted of a felony."

Debtors' approved disclosure statement of the plan included a liquidation analysis that calculated unsecured creditors would receive 23.71% of their claims, as compared to 11.26% of their claims if the estate were liquidated. Debtors assert that they have made all payments under the plan to unsecured creditors, but that not all of the checks Debtors have sent have been cashed. Debtors also contend that they have made attempts to find the unsecured creditors whose checks have been sent back, but have been unsuccessful in their attempts thus far.

It would appear all requirements of §1141(d)(5)(B) have been met, with one possible exception. The court agrees that distribution of $3,658.74, the sum still outstanding to unsecured creditors who cannot readily be found, is not feasible, or "practicable" through the complicated ordinary process of a new disclosure statement and modified plan. But, the court is aware that Chapter 7 and 13 trustees often deposit unclaimed funds into court for possible future distribution by the court, once claimants are found. See FRBP Rules 3010 and 3011. Alternatively, §347(b) provides for reversion of money or property held but unclaimed "at the expiration of time allowed in a case for the presentation of a security or the performance of any other act as a condition to participation in the distribution…" to the debtor. The court would like to hear whether either of these approaches could be made to work under a "non-material modification" of the plan or similar efficient approach.

10:00 AM
CONT... Miguel Angel Ibarra and Graciela Arana de Ibarra **Chapter 11**
2.Final Decree

"After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case." Fed. R. Bankr. P. 3022. The terms "fully administered" are not defined in the code. However, Committee Notes to the 1991 amendment provide insight, stating that the court should consider the following six factors: "(1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved."

Based on the declaration offered it would appear that all necessary steps have been done and that a final decree is in order. But first, the court would like an answer to its suggestion above.

Grant provided no feasible alternative as described is offered.

Party Information

Debtor(s):

Miguel Angel Ibarra — Represented By
Steve Lopez
Tuan Le

Joint Debtor(s):

Graciela Arana de Ibarra — Represented By
Steve Lopez
Tuan Le

11:00 AM
8:14-16592 Miguel Angel Ibarra and Graciela Arana de Ibarra **Chapter 11**

#4.00 Order Setting Post-Confirmation Status Conference
(Cont'd from 10-26-16)

Docket 1

Tentative Ruling:

Tentative for 12/14/16:
See # 3

_____
Continue to any hearing on motion for final decree filed October 13, 2016.

Party Information

Debtor(s):

Miguel Angel Ibarra	Represented By Steve Lopez Steve Lopez Steve Lopez Tuan Le Tuan Le Tuan Le

Joint Debtor(s):

Graciela Arana de Ibarra	Represented By Steve Lopez Tuan Le