

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

BRENDA PRICE, a/k/a Bren Price,  
a/k/a Brenda Price; d/b/a Touchstone  
Residential Gallery, Touchstone Inn, Spa  
& Gallery; Bren Price Studio, and Bren Price  
Enterprises,

No. 11-05-10321 JA

Debtor.

**ORDER GRANTING UNITED STATES TRUSTEE'S MOTION FOR ENTRY  
OF FINAL DECREE AND CLOSING CASE**

THIS MATTER is before the Court on the United States Trustee's Motion to Dismiss or Convert Case to a Chapter 7 Proceeding, or in the Alternative to Close Case with a Final Decree ("Motion"). At the final hearing on the Motion held December 14, 2009, the Debtor appeared, *pro se* in opposition to the Motion.<sup>1</sup> On the same date, the Debtor filed a Motion to Reconsider, requesting the Court to issue a new stay in order to give the debtor additional time to sell certain real property. See Motion to Reconsider, Docket No. 369. The Debtor objected to entry of a final decree for the reasons set forth in her Motion to Reconsider. The Court denied the Debtor's Motion to Reconsider for the reasons set forth in its Order Denying Motion to Reconsider (Docket No. 374).

Pursuant to 11 U.S.C. §350(a)<sup>2</sup> and in accordance with Fed.R.Bankr.P. 3022, "[a]fter 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." Rule 3022, Fed.R.Bankr.P. "Bankruptcy Rule 3022 is intended to allow bankruptcy courts flexibility in determining whether an estate is fully administered." *In re Union Home and Indus., Inc.* 375 B.R. 912, 917 (10<sup>th</sup> Cir. BAP 2007)(quoting *In re Federated Dep't Stores*, 43 Fed.Appx. 820, 822 (6<sup>th</sup> Cir. 2002)). The Bankruptcy Code does not define the meaning of "fully administered." *Union Home*, 375 B.R. at 916. The Advisory Committee Note to Fed.R.Bankr.P. states that the "[e]ntry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed." Among the factors the Advisory Committee suggests the Court should consider in determining whether the estate has been fully administered is "whether the order confirming the plan has become final," and "whether the payments under the plan have commenced." *Id.* The Court has previously determined that the

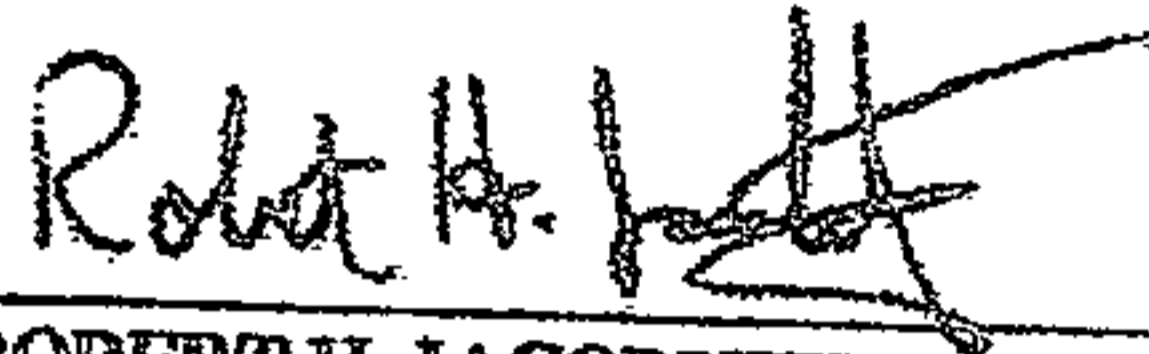
<sup>1</sup> Three other objections to the Motion were filed, none of which specified any grounds for the objections. (Docket Nos. Docket Nos. 354, 355, and 356). Those objecting parties failed to appear at the final hearing on the Motion, and their objections therefore are overruled.

<sup>2</sup> That section provides:

After an estate is fully administered and the court has discharged the trustee, the court shall close the case.  
11 U.S.C. § 350(a).

Debtor's plan was substantially consummated. See Order Denying Debtor's Motion for Post-Confirmation Modification of Chapter 11 Plan, ¶ 24 (Docket No. 273). The order confirming the Debtor's plan was entered on May 19, 2006 and became final ten days thereafter.<sup>3</sup> Based on the fact that the order confirming the debtor's plan has become final and may not be modified, that the plan has been substantially consummated, that all assets of the estate have vested in the Debtor, and that there are no pending contested matters, the Court finds that the estate has been fully administered and there is no impediment to the entry of a final decree closing the case.

WHEREFORE, IT IS HEREBY ORDERED, that the Motion is GRANTED. The Court hereby enters a final decree and closes this case.



ROBERT H. JACOBVITZ  
United States Bankruptcy Judge

Date entered on docket: January 7, 2010

COPY TO:

Brenda C. Price  
PO Box 1885  
Taos, NM 87571

United States Trustee  
Attn: Leonard Martinez-Metzgar  
PO Box 608  
Albuquerque, NM 87103-0608

<sup>3</sup> See *In re K.D.Co., Inc.*, 254 B.R. 480, 490 (10<sup>th</sup> Cir. BAP 2000)(noting that "[a] confirmation order is a final judgment in the case, and neither it nor the plan that it confirms may be attacked other than by filing a timely appeal.")(citations omitted). Pursuant to Fed.R.Bankr.P. 8002, a notice of appeal must be filed within ten days (now 14 days as of December 1, 2009) of the date of entry of the order appealed from.