

This order is SIGNED.

Dated: February 15, 2019



JOEL T. MARKER
U.S. Bankruptcy Judge



msc

Prepared and Submitted By:

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and also Trustee of the Private Actions Trust*

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

In re:

DEE ALLEN RANDALL, et al.,
Debtors.

Bankruptcy Case No. 10-37546

(Substantively Consolidated with Case Nos.
11-34826, 11-34830, 11-34831, 11-34833 and
11-34834)

Chapter 11

Honorable Joel T. Marker

(Filed via ECF)

FINAL DECREE AND ORDER CLOSING THE CONSOLIDATED CASE

The Court has considered *The Trustee's Final Report Dated January 18, 2019, and
Motion for Entry of Final Decree and for Order Closing the Consolidated Case* [Dkt. 1734] (the

“**Motion**”) that was filed in this consolidated Chapter 11 bankruptcy case (the “**Consolidated Case**”) on January 18, 2019 by Gil A. Miller (the “**Trustee**”), in his capacity both as the post-confirmation Trustee of the substantively consolidated and reorganized Chapter 11 estate of Dee Allen Randall, Horizon Auto Funding, LLC, Independent Commercial Lending, LLC, Horizon Financial Center I, LLC, Horizon Mortgage and Investment Inc., and Horizon Financial & Insurance Group Inc. (the “**Reorganized Debtors**”), and also as the Trustee of the Randall Victims Private Actions Trust (the “**PAT**”) that was created under the *Chapter 11 Trustee’s Liquidating Plan of Reorganization Dated September 9, 2013* (the “**Plan**”) [Dkt. 1268] and the *Order Confirming the Chapter 11 Trustee’s Liquidating Plan of Reorganization Dated September 9, 2013* [Dkt. 1367] entered on October 28, 2018 (the “**Confirmation Order**”).

It appears from the Certificate of Service attached to the Motion, the Certificates of Service attached to the supporting *Declaration of Gil A. Miller in Support of Trustee’s Final Report Dated January 18, 2019 and Motion for Entry of Final Decree and for Order Closing the Consolidated Case* filed on January 18, 2019 [Dkt. 1735] (the “**Miller Decl.**”) and the related *Notice of Hearing on the Trustee’s Final Report Dated January 18, 2019 and Motion for Entry of Final Decree and for Order Closing the Consolidated Case, and Notice of Hearing* (the “**Notice of Hearing**”) filed on January 18, 2019 [Dkt. 1736], and also the *Certificate of Service of Notice of Hearing on the Trustee’s Final Report Dated January 18, 2019, and Motion for Entry of Final Decree and Order for Closing the Consolidated Case, and Notice of Hearing* filed on February 12, 2019 [Dkt. 1737] (the “**Supplemental Certificate of Service**”), that notice of the Motion, the Miller Decl., and the Notice of Hearing was proper and sufficient. The Notice of Hearing directed that any responses to the Motion be filed with the Court by no later than

February 8, 2019. No responses were filed.

After reviewing the Motion, the Miller Decl., the Notice of Hearing, and such other matters of record that the Court deems appropriate, THE COURT HEREBY FINDS AND CONCLUDES as follows:

A. The Court has jurisdiction over this Consolidated Case and the Motion pursuant to 11 U.S.C. § 350(a) and 28 U.S.C. §§ 157(b)(2)(A) and 1334.

B. Notice of the Motion, and of the hearing thereon, was sent to all parties in interest in accordance with the terms of the Plan and the Confirmation Order, the Federal Rules of Bankruptcy Procedure, and the *Order Granting Trustee's Ex Parte Motion to Limit Notice in Connection with Trustee's Motion for Entry of Final Decree, and for Order Closing the Consolidated Case* [Dkt. 1724] entered on January 8, 2019, and such notice was proper and appropriate under the circumstances as contemplated by 11 U.S.C. § 102(1).

C. No creditor or party-in-interest has filed an objection or response opposing the Motion, and the relief requested in the Motion is uncontested.

D. The Trustee, in his capacity as the Plan Trustee under the Plan, has provided all necessary services and performed all of his duties in liquidating and administering the property and assets of the Consolidated Estate pursuant to the Plan.

E. As outlined in the Motion and the Miller Decl., the Trustee has completed all payments and distributions contemplated by the Plan.

F. As contemplated by Section 7.1(b) of the *Randall Victims Private Actions Trust Agreement* (the "**PAT Trust Agreement**") (Exhibit A to the Plan), the Trustee has administered

all PAT assets and made all distributions to the PAT Beneficiaries, and has performed all other duties required by the Plan and the PAT Trust Agreement.

G. All of the post-Confirmation Order lawsuits pursued by the Trustee on behalf of the Consolidated Estate and on behalf of the PAT have now been resolved and dismissed, and all motions, contested matters, objections to claims, and adversary proceedings in this Consolidated Case have been finally resolved.

H. This Consolidated Case has been fully administered as required by 11 U.S.C. § 350 and Federal Rule of Bankruptcy Procedure 3022, and may now be closed.

I. The legal and factual bases set forth in the Motion and the Miller Decl. establish good cause for the relief granted herein.

J. The Motion is well taken, and should be granted.

WHEREFORE, based upon the foregoing findings and conclusions, and other matters of record, and good cause appearing, THE COURT HEREBY ORDERS as follows:

1. The Motion is hereby GRANTED.
2. The Trustee's Final Report, as set forth in the Motion and the Miller Decl., is hereby approved by the Court.
3. This Order constitutes the FINAL DECREE in this Consolidated Case and the Clerk of the Court is directed to CLOSE the Consolidated Case.
4. Upon the completion of the administrative tasks discussed in the Motion, including without limitation the destruction of the records of the Consolidated Case, the Trustee is DISCHARGED from his duties to the Consolidated Estate in this Consolidated Case and is

further DISCHARGED from his duties as the PAT Trustee under the PAT Trust Agreement to the PAT and to the PAT Beneficiaries.

5. The PAT is hereby terminated under the terms of the PAT Trust Agreement.

6. The Trustee is authorized to destroy the records relating to the Consolidated Case after the Consolidated Case is closed and such records are no longer needed by the Trustee.

7. Paragraph 11 of the *Order Approving the Trustee's Motion to Approve (A) Trustee's Third and Final Estate Distribution Under the Plan, (B) Trustee's Final Private Actions Trust Distribution, (C) Trustee's Reserve for Fees & Costs to Close the Consolidated Case, and (D) Trustee's Plans for Disposition of Unclaimed Funds* (the "**Final Distributions Order**") entered by the Court on December 13, 2018 [Dkt. 1719], is hereby amended as follows in order to clarify what was intended by the Final Distributions Order:

11. The Trustee is authorized and ordered to donate the amount of any unclaimed funds or cancelled checks from the PAT Distributions, as well as any unused funds from the Trustee's Final Closing Reserve (if any) (after the proceeds from any cancelled checks from the Third and Final Estate Distribution are first deposited into the Trustee's Final Closing Reserve to be applied towards the U.S. Trustee's quarterly fees under 28 U.S.C. § 1930 and any other final expenses of the Consolidated Estate), to the nonprofit legal services organization "And Justice For All." The Trustee is also authorized, prior to any donation to "And Justice For All," to make an additional small PAT Distribution and/or an additional small Estate Distribution if the amount of unclaimed funds or proceeds from cancelled checks is sufficient to justify any additional small distribution.

-----END OF ORDER-----