

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE: §
§
DEEPROOT CAPITAL MANAGEMENT, §
LLC, ET AL.,¹ § BANKRUPTCY No. 21-51523-MMP
§ LEAD CASE
DEBTORS. § JOINTLY ADMINISTERED

TRUSTEE’S MOTION FOR ORDER GRANTING ADDITIONAL TIME TO
FILE PROOFS OF CLAIM PURSUANT TO
RULE 3004 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

TO THE HONORABLE MICHAEL M. PARKER, UNITED STATES BANKRUPTCY JUDGE:

John Patrick Lowe, Chapter 7 Trustee for the Jointly Administered Debtors herein (“Trustee”), hereby files his *Trustee’s Motion for Order Granting Additional time to File Proofs of Claim Pursuant to FRBP 3004* (the “**Motion**”). In support of the Motion, the Trustee respectfully represents as follows:

¹ The Debtors in these administratively consolidated chapter 7 cases, along with the last four digits of each Debtor's federal tax identification number, are: Policy Services, Inc. (2864), Wizard Mode Media, LLC (3205), deeproot Pinball LLC (0320), deeproot Growth Runs Deep Fund, LLC (8046), deeproot 575 Fund, LLC (9404), deeproot 3 Year Bonus Income Debenture Fund, LLC (7731), deeproot Bonus Growth 5 Year Debenture Fund, LLC (9661), deeproot Tech LLC (9043), deeproot Funds LLC (9404), deeproot Studios LLC (6283), and deeproot Capital Management, LLC (2638).

I. JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Sale Motion pursuant to sections 157 and 1334 of title 28 of the United States Code. 28 U.S.C. §§ 157, 1334. This is a core proceeding pursuant to section 157(b)(2). 28 U.S.C. §§ 157(b)(2). Venue is proper before this Court pursuant to sections 1408 and 1409 of title 28 of the United States Code. 28 U.S.C. §§ 1408-1409.

2. The statutory predicates for the relief requested herein are Section 501 of the Bankruptcy Code and Rule 3004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

3. Attached hereto as Exhibit A is the proposed order on the Motion.

II. PROCEDURAL HISTORY

4. On December 9, 2021 (the “**Petition Date**”), the Debtor filed a voluntary petition under chapter 7, title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “**Bankruptcy Code**”). The Court authorized that the Debtor’s bankruptcy case, along with 10 other debtor affiliates, be jointly administered under lead case *In re: deeproot Capital Management, LLC*, Case No. 21-51523 (the “**Jointly Administered Case**”).

5. On or about December 21, 2021, John Patrick Lowe was appointed as Chapter 7 Trustee of all eleven bankruptcy cases comprising the Jointly Administered Case.

6. The meetings of creditors convened on January 28, 2022 and concluded on March 25, 2022. The Court set a bar date of March 22, 2022 for the filing of proofs of claim in all of the jointly administered cases.

7. FRBP Rule 3004 (“**Rule 3004**”) reads as follows:

“If a creditor does not timely file a proof of claim under [Rule 3002\(c\)](#) or [3004\(c\)](#), the debtor or trustee may file a proof of the claim within 30 days after the expiration of the time for filing claims prescribed by [Rule 3002\(c\)](#) or [3004\(c\)](#),

whichever is applicable. The clerk shall forthwith give notice of the filing to the creditor, the debtor and the trustee.”

8. Many of the debtors’ books and records contained in the debtors’ respective schedules reflect intercompany payables and receivables owing between the debtors. The Trustee has not yet been able to verify the accuracy of the intercompany activity. The proofs of claim that would evidence such intercompany activity were not filed in each of the estates by any of the Debtors, nor, as yet, by the Trustee.

9. It is also likely that at least some, if not all, of the jointly administered debtors’ estates are or will be seeking a substantive consolidation. A substantive consolidation would eliminate the need to separate the intercompany accounts and file proofs of claim on behalf of affiliated debtors.

10. Under Rule 3004, the Trustee has a right to file proofs of claim for any creditor, including creditors who are also debtors. Trustee and his counsel are in the process of determining whether proofs of claim need to be filed by any of the jointly administered debtors against any of the other jointly administered debtor in these jointly administered cases. In order to determine whether such proofs of claim are to be filed, the Trustee will need, among other documents, financial records for 2021 which were not provided by any of the debtors. Given the need to review and obtain voluminous financial records of the debtors, the time period in which the Trustee would file such proofs of claim needs to be extended for a significant period of time.

III. RELIEF REQUESTED

11. The current deadline under Rule 3004 for the Trustee to timely file such intercompany proofs of claim is April 21, 2022.

12. The Trustee believes that he will need at least a year to obtain and review the appropriate financial records, in order to determine whether the inter-debtor proofs of claim

should be filed.

13. Trustee believes good cause exists to extend the current Rule 3004 deadline for one year, to April 21, 2023.

14. Unlike Rule 3002(c), the time for filing claims under Rule 3004 is subject to enlargement. Pursuant to Rule 9006(b)(1), a court, in its discretion, may extend the deadline for filing a claim under Rule 3004 for “cause shown,” if the request for an extension is made prior to the expiration of the 30-day deadline. Fed. R. Bankr.P. 9006(b)(1). *See* In Re: Sykes, 451 B.R. 852, at 862 (Bankr. S.D. Ill, 2011).

15. The Trustee’s request has been made “before the expiration of the period originally prescribed” as required by Rule 3004.

16. No previous request for the relief sought herein has been made to this Court or any other court. The Trustee’s counsel has conferred with counsel for the United States Securities and Exchange Commission (the “SEC”). The SEC has no opposition to this request.

WHEREFORE, Trustee respectfully requests that the Court enter an order (i) extending the time for the Trustee to file claims under Rule 3004 for one year, to April 21, 2023, and (ii) granting such other and further relief as is just and proper.

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Respectfully submitted,

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**ATTORNEYS FOR JOHN PATRICK LOWE,
CHAPTER 7 TRUSTEE FOR THE JOINTLY
ADMINISTERED CASE OF IN RE DEEPROOT
CAPITAL MANAGEMENT, LLC ET AL.**

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of April, 2022, I electronically filed the foregoing document using the CM/ECF system, which will serve the document to the following parties requesting notice:

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deeproot 575 Fund, LLC
deeproot 3 Year Bonus Income Fund, LLC
deeproot BonusGrowth 5 Year Debenture Fund, LLC
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EXHIBIT A

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ORDER GRANTING
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On this day came on to be heard the *Motion* of John Patrick Lowe, Chapter 7 Trustee for the Jointly Administered Debtors herein (“Trustee”), *for Order Granting Additional time to File Proofs of Claim Pursuant to FRBP 3004* (the “**Motion**”). After considering the pleadings and representation of counsel, and after determining no objections to the Motion were filed, this

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Court is of the opinion that the Motion should in all things be GRANTED.

It is, therefore, ORDERED that the deadline by which the Trustee may file claims under Rule 3004 is extended to April 21, 2023

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Order submitted by:

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**ATTORNEYS FOR JOHN PATRICK LOWE,
CHAPTER 7 TRUSTEE FOR THE JOINTLY
ADMINISTERED CASE OF *IN RE DEEPROOT
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