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NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
MALY CHEA,

Debtor.

Case No. 2:17-BK-11458-RK
Chapter 7

**ORDER ON DEBTOR'S MOTION TO
REOPEN CHAPTER 7 CASE; ORDER
FOR SANCTIONS AGAINST COUNSEL
FOR NON-COMPLIANCE WITH LOCAL
BANKRUPTCY RULE 5010-1(E) AND
SETTING HEARING FOR
RECONSIDERATION OF SANCTIONS**

Date: May 23, 2017
Time: 2:30 p.m.
Place: Courtroom 1675
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

Pending before the court is the motion ("Motion") to reopen the above-captioned Chapter 7 bankruptcy case of Maly Chea ("Debtor"), ECF 21, filed on May 2, 2017 through counsel of record, Edward T. Weber, because the case was dismissed due to Debtor's failure to appear at a continued 341(a) meeting of creditors as the result of a calendaring error. The Motion was noticed for hearing on May 23, 2017 at 2:30 p.m. No opposition was filed to the Motion.

The court, having reviewed the Motion, determines that pursuant to Local Bankruptcy Rules 5010-1(e) and 9013-1(q), a hearing on the Motion is not required, nor

1 necessary, takes the Motion under submission, vacates the May 23, 2017 hearing on the
2 Motion as improvidently noticed by Debtor, and rules as follows on the Motion.

3 The court determines that the Motion to reopen should be granted “for cause”
4 under 11 U.S.C. § 350(b) and Federal Rule of Bankruptcy Procedure 5010 for the
5 reasons stated in the moving papers, that is, to allow Debtor to continue with the
6 bankruptcy process. *See also*, 4 March, Ahart and Shapiro, *California Practice Guide:*
7 *Bankruptcy*, ¶ 23:151 at 23-20 (2016), *citing, inter alia, In re Menk*, 241 B.R. 896, 913
8 (9th Cir. BAP 1999) (“[T]he reopening of a closed bankruptcy case is a ministerial act that
9 functions primarily to enable the file to be managed by the clerk as an active matter and
10 that, by itself, lacks independent legal significance and determines nothing with respect to
11 the merits of the case.”).

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Debtor’s Motion to reopen the above-captioned Chapter 7 bankruptcy case is
14 GRANTED pursuant to 11 U.S.C. § 350(b), Federal Rule of Bankruptcy Procedure
15 5010, and Local Bankruptcy Rules 5010-1 and 9013-1(q), and the bankruptcy
16 case is ordered reopened.
- 17 2. The hearing on the Motion to reopen set for May 23, 2017 at 2:30 p.m. is
18 VACATED and TAKEN OFF CALENDAR. No appearances are required at the
19 May 23, 2017 hearing on the Motion.
- 20 3. Although the court grants the Motion, the court observes that Debtor’s counsel,
21 Edward T. Weber, who filed the Motion on Debtor’s behalf, acted contrary to Local
22 Bankruptcy Rule 5010-1(e) by calendaring a hearing date for the Motion without
23 prior court authorization, which expressly provides that, “A motion to reopen may
24 be ruled on without a hearing pursuant to LBR 9013-1(q). The movant must not
25 calendar a hearing date nor will a hearing be held on the motion, unless otherwise
26 ordered by the court.”

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- 1 4. Pursuant to Local Bankruptcy Rule 9011-3(a), to remedy the violation of Local
2 Bankruptcy Rule 5010-1(e), Attorney Weber is now ordered to read Local
3 Bankruptcy Rule 5010-1(e) and file a declaration under penalty of perjury with the
4 court stating that he has done so and now understands it on or before May 31,
5 2017. Failure to timely file this declaration with the court may result in the
6 imposition of monetary sanctions against Attorney Weber.
- 7 5. The court sets a further hearing on these sanctions against Attorney Weber on
8 June 6, 2017 at 1:30 p.m. for him to be heard if he seeks reconsideration of these
9 sanctions. The hearing will be in Courtroom 1675, Roybal Federal Building, 255
10 East Temple Street, Los Angeles, California. If Attorney Weber fails to file the
11 declaration that he has read and understood Local Bankruptcy Rule 5010-1(e) as
12 ordered, he is ordered to appear at the hearing on June 6, 2017 at 1:30 p.m. If
13 Attorney Weber timely files the declaration, the court will assume that he does not
14 contest these sanctions, and the court will take the hearing off calendar.

15 **IT IS SO ORDERED.**

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23 Date: May 18, 2017



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Robert Kwan
United States Bankruptcy Judge

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