

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:	)	
	)	Chapter 11
AVAYA INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 23-90088 (DRJ)
	)	
Reorganized Debtors.	)	(Jointly Administered)
	)	

REORGANIZED DEBTORS' MOTION FOR ENTRY OF A  
FINAL DECREE CLOSING CERTAIN OF THE CHAPTER 11 CASES

**If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this application was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this application was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

The above-captioned reorganized debtors (collectively, the “Reorganized Debtors,” and before the Effective Date<sup>2</sup> of the Plan, collectively, the “Debtors”) state as follows in support of this motion:

**Relief Requested**

1. The Reorganized Debtors seek entry of a final decree, substantially in the attached form (the “Final Decree”), (a) closing each of the Debtors’ Chapter 11 Cases other than the case

<sup>1</sup> A complete list of each of the Reorganized Debtors in these chapter 11 cases may be obtained on the website of the Reorganized Debtors’ claims and noticing agent at <http://www.kcellc.net/avaya>. The location of Reorganized Debtor Avaya Inc.’s principal place of business and the Reorganized Debtors’ service address in these chapter 11 cases is 350 Mount Kemble Avenue, Morristown, New Jersey 07960.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Joint Prepackaged Plan of Reorganization of Avaya Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)* [Docket No. 325] (as amended, supplemented, or otherwise modified from time to time, the “Plan”).



of Avaya Holdings LLC, Case No. 23-90095 (the “Remaining Case”), and (b) granting related relief.

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Reorganized Debtors confirm their consent to the entry of a final order by the Court.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a) and 350(a) of title 11 of the United States Code (the “Bankruptcy Code”), rule 3022 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 1075-1 and 9013-1 of the Local Bankruptcy Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

### **Background**

5. On February 14, 2023, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.<sup>3</sup> The same day, the Court entered an order [Docket No. 15] authorizing the joint administration of these Chapter 11 Cases under the case of Avaya Inc., Case No. 23-90088 (the “Lead Case”). The Chapter 11 Cases other than the Lead Case are as follows:

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<sup>3</sup> A detailed description of the facts and circumstances of these Chapter 11 Cases is set forth in the *Declaration of Eric Koza, Chief Restructuring Officer of Avaya Holdings Corp. and Certain of Its Affiliates and Subsidiaries, in Support of the Debtors’ Chapter 11 Petitions and First Day Motions* [Docket No. 4].

<b>Affiliate Debtor</b>	<b>Case No.</b>
Avaya CALA Inc.	23-90089
Avaya Cloud Inc.	23-90090
Avaya EMEA Ltd.	23-90091
Avaya Federal Solutions, Inc.	23-90093
Avaya Holdings Corp.	23-90094
Avaya Holdings LLC	23-90095
Avaya Integrated Cabinet Solutions LLC	23-90096
Avaya Management L.P.	23-90101
Avaya Management Services Inc.	23-90103
Avaya World Services Inc.	23-90104
CAAS Technologies, LLC	23-90105
CTIntegrations, LLC	23-90087
HyperQuality, Inc.	23-90106
HyperQuality II, LLC	23-90107
Intellisist, Inc.	23-90092
KnoahSoft, Inc.	23-90097
Sierra Asia Pacific Inc.	23-90098
Sierra Communication International LLC	23-90099
Ubiquity Software Corporation	23-90100
VPNet Technologies, Inc.	23-90102

6. On March 22, 2023, the Court confirmed the Plan and entered the *Order Approving the Debtors' Disclosure Statement for, and Confirming, the Joint Prepackaged Plan of Reorganization of Avaya Inc. and Its Debtor Affiliates* [Docket No. 350] (the "Confirmation Order"), pursuant to which, among other things, the Court permanently waived the requirements that the Debtors file their schedules and statements of financial affairs and that the Office of the United States Trustee for the Southern District of Texas (the "U.S. Trustee")

convene a meeting of creditors or equity holders pursuant to section 341(e) of the Bankruptcy Code. The Confirmation Order is final, non-appealable, and not subject to any pending appeal.

7. On May 1, 2023, the Debtors substantially consummated the Plan, and the Effective Date occurred.<sup>4</sup>

8. Although the Reorganized Debtors do not anticipate any significant contested matters related to their Chapter 11 Cases, miscellaneous motions, applications, pleadings, or other matters or proceedings may arise from time to time (collectively, the “Remaining Matters”). Any Remaining Matters related to any of the Reorganized Debtors can be filed, administered, and adjudicated in the Remaining Case without any substantive or negative impact on any party in interest.<sup>5</sup>

9. The Reorganized Debtors believe that closing these Chapter 11 Cases other than the Remaining Case is in the best interest of the Reorganized Debtors as it will greatly reduce the fees attributable to remaining in chapter 11.

#### **Basis for Relief**

10. Section 350(a) of the Bankruptcy Code provides that “[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case.” 11 U.S.C. § 350(a). Bankruptcy Rule 3022, which implements section 350 of the Bankruptcy Code, further provides that “[a]fter an estate is fully administered in a chapter 11

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<sup>4</sup> See Notice of (I) Entry of Order Approving the Debtors’ Disclosure Statement for, and Confirming, the Joint Prepackaged Plan of Reorganization of Avaya Inc. and Its Debtor Affiliates and (II) Occurrence of the Effective Date [Docket No. 385].

<sup>5</sup> The Reorganized Debtors reserve all rights to dispute any outstanding claims, and the failure of the Reorganized Debtors to object to any claim filed in these Chapter 11 Cases prior to entry of the Final Decree shall not cause such claim to be deemed allowed. The Reorganized Debtors request that the Court permit any objections to claims against or interests in any of the Chapter 11 Cases to be filed, administered, and adjudicated in the Remaining Case.

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.

11. The term “fully administered” is not defined in the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Local Rules. The Advisory Committee Note to Bankruptcy Rule 3022 (the “Advisory Committee Note”), however, sets forth the following non-exclusive factors to be considered in determining whether a case has been fully administered:

- i. whether the order confirming the plan has become final;
- ii. whether deposits required by the plan have been distributed;
- iii. whether the property proposed by the plan to be transferred has been transferred;
- iv. 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;
- v. whether payments under the plan have commenced; and
- vi. whether all motions, contested matters, and adversary proceedings have been finally resolved.

Fed. R. Bankr. P. 3022, Advisory Comm. Note (1991). Courts look “to the advisory committee’s notes on Bankruptcy Rule 3022 in seeking guidance as to the meaning of ‘fully administered.’” *In re JCP Props., Ltd.*, 540 B.R. 596, 605 (Bankr. S.D. Tex. 2015).

12. In addition to the factors set forth in the Advisory Committee Note, courts have considered whether the plan of reorganization has been substantially consummated. *See, e.g., In re JCP Props., Ltd.*, 540 B.R. at 605 (commenting that “substantial consummation is the pivotal question here to determine the propriety of closing the [case]”). Section 1101(2) of the Bankruptcy Code defines substantial consummation as the: (A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the

successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan.

13. Bankruptcy courts have adopted the view that “[the Advisory Committee Note] factors are but a guide in determining whether a case has been fully administered, and not all factors need to be present before the case is closed.” *In re SLI, Inc.*, Case No. 02-12608 (WS), 2005 WL 1668396, at \*2 (Bankr. D. Del. June 24, 2005).

14. Courts have also noted that entry of a final decree is appropriate to stop the accrual of fees paid to the U.S. Trustee pursuant to section 1930 of the United States Code (the “Section 1930 Fees”). See *In re Jay Bee Enters., Inc.*, 207 B.R. 536, 539 (Bankr. E.D. Ky. 1997) (concluding that “it seems appropriate to close this case to stop the financial drain on the debtor” due to accrual of Section 1930 Fees).

15. Here, the foregoing factors weigh strongly in favor of closing all of the Chapter 11 Cases except for the Remaining Case (collectively, the “Affiliate Cases”). The Confirmation Order is a final order, the Effective Date of the Plan has occurred, and the Plan is substantially consummated. The Debtors’ estate property has transferred to the Reorganized Debtors in accordance with the Plan, the Reorganized Debtors have assumed the management and control over the Debtors’ businesses, and distributions have occurred in accordance with the Plan. Therefore, the Affiliate Cases have been “fully administered.” Closing the Affiliate Cases is consistent with the confirmed Plan, which provides that the Reorganized Debtors “shall, promptly after the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases.” Plan, Art. XII.M.

16. While the Reorganized Debtors acknowledge that the payment of certain claims may be pending, such claims will be paid pursuant to the Plan in the Remaining Case or outside the Chapter 11 Cases in accordance with the Bankruptcy Code and the Plan. Bankruptcy courts in the Fifth Circuit have entered final decrees and closed cases despite certain claims being unpaid. *See, e.g., In re Anachoreta, Inc.*, No. 18-36960 (MI) (Bankr. S.D. Tex. Jun. 26, 2020); *In re EXCO Services, Inc.*, No. 18-30167 (MI) (Bankr. S.D. Tex. Nov. 12, 2019). “The court should not keep [a] case open only because of the possibility that the court’s jurisdiction may be invoked in the future.” Fed. R. Bankr. P. 3022, Advisory Comm. Note (1991). Moreover, the entry of the Final Decree closing the Affiliate Cases would be without prejudice to creditors’ rights to petition the Court to reopen any of such cases pursuant to section 350(b) of the Bankruptcy Code.

17. The Reorganized Debtors will work to resolve any Remaining Matters. To the extent issues arise relating to the Reorganized Debtors, such matters can be resolved under the Remaining Case without keeping the dockets of the Affiliate Cases open. Closing the dockets of the Affiliate Cases will have no impact on the resolution of any remaining claims or distributions, other legal entitlements under the Plan, or the substantive rights of any party in interest, and would stop the accrual of Section 1930 Fees associated with the Affiliate Cases. Accordingly, entry of the Final Decree closing the Affiliate Cases is in the best interests of the Reorganized Debtors and an appropriate use of the Court’s equitable powers pursuant to section 105(a) of the Bankruptcy Code.

#### **Notice**

18. The Reorganized Debtors will provide notice of this motion to the following parties or their respective counsel: (a) the U.S. Trustee for the Southern District of Texas; (b) the holders of the thirty largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the Akin Ad Hoc Group; (d) counsel to the PW Ad Hoc Group; (e) the Prepetition ABL Agent and

counsel thereto; (f) the First Lien Term Loan Agent and counsel thereto; (g) the 6.125% Senior Secured First Lien Notes Trustee and counsel thereto; (h) the 8.00% Exchangeable Senior Secured Notes Trustee and counsel thereto; (i) the 2.25% Convertible Notes Trustee and counsel thereto; (j) the DIP Term Loan Agent and counsel thereto; (k) the DIP ABL Agent and counsel thereto; (l) the Office of the United States Attorney for the Southern District of Texas; (m) the state attorneys general for states in which the Debtors conduct business; (n) the Internal Revenue Service; (o) the Securities and Exchange Commission; (p) the Environmental Protection Agency; (q) other governmental agencies having a regulatory or statutory interest in these cases; and (r) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, no other or further notice is required.



WHEREFORE, the Reorganized Debtors request that the Court enter the Final Decree granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Houston, Texas  
Dated: July 11, 2023

/s/ Matthew D. Cavanaugh

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*Co-Counsel to the Reorganized Debtors*

*Co-Counsel to the Reorganized Debtors*

**Certificate of Service**

I certify that on July 11, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

*/s/ Matthew D. Cavanaugh*

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Matthew D. Cavanaugh

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
AVAYA INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 23-90088 (DRJ)
	)	
Reorganized Debtors.	)	(Jointly Administered)
	)	<b>Re: Docket No.</b>

**FINAL DECREE CLOSING CERTAIN OF THE CHAPTER 11 CASES**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned reorganized debtors (collectively, the “Reorganized Debtors,” and before the Effective Date of the Plan, collectively, the “Debtors”) for entry of a final decree (this “Final Decree”) pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022, closing the Affiliate Cases, all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is permissible pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Reorganized Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Reorganized Debtors’ notice of

<sup>1</sup> A complete list of each of the Reorganized Debtors in these chapter 11 cases may be obtained on the website of the Reorganized Debtors’ claims and noticing agent at <http://www.kccllc.net/avaya>. The location of Reorganized Debtor Avaya Inc.’s principal place of business and the Reorganized Debtors’ service address in these chapter 11 cases is 350 Mount Kemble Avenue, Morristown, New Jersey 07960.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the *Joint Prepackaged Plan of Reorganization of Avaya Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (Technical Modifications)* [Docket No. 325] (as amended, supplemented, or otherwise modified from time to time, the “Plan”), as applicable.

the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The following Affiliate Cases are hereby closed; *provided* that this Court shall retain jurisdiction as provided in the Plan, the Confirmation Order, and this Final Decree:

<b>Debtor</b>	<b>Case No.</b>
Avaya CALA Inc.	23-90089
Avaya Cloud Inc.	23-90090
Avaya EMEA Ltd.	23-90091
Avaya Federal Solutions, Inc.	23-90093
Avaya Holdings Corp.	23-90094
Avaya Inc.	23-90088
Avaya Integrated Cabinet Solutions LLC	23-90096
Avaya Management L.P.	23-90101
Avaya Management Services Inc.	23-90103
Avaya World Services Inc.	23-90104
CAAS Technologies, LLC	23-90105
CTIntegrations, LLC	23-90087
HyperQuality, Inc.	23-90106
HyperQuality II, LLC	23-90107
Intellisist, Inc.	23-90092
KnoahSoft, Inc.	23-90097
Sierra Asia Pacific Inc.	23-90098
Sierra Communication International LLC	23-90099
Ubiquity Software Corporation	23-90100
VPNNet Technologies, Inc.	23-90102

2. The Remaining Case of Avaya Holdings LLC, Case No. 23-90095, shall remain open pending the entry of a final decree by this Court closing the Remaining Case.

3. The clerk shall designate on the dockets of the Affiliate Cases that the cases are now being administered under the Remaining Case. The Reorganized Debtors shall make a docket entry in each of the Affiliate Cases substantially similar to the following:

An order has been entered in this case directing that all further reporting concerning the administration of the assets and liabilities in this case will occur only in the case of Avaya Holdings LLC, Case No. 23-90095. The docket in Case No. 23-90095 should be consulted for all matters affecting this case.

4. The following caption shall be used in the Remaining Case going forward:

In re:	)	
	)	Chapter 11
AVAYA HOLDINGS LLC,	)	
	)	Case No. 23-90095 (DRJ)
Reorganized Debtor.	)	
	)	(Formerly Jointly Administered Under
	)	Lead Case Avaya Inc., 23-90088)

5. The Court retains jurisdiction and authority with regard to the Remaining Matters, whether or not they pertain to the Remaining Case or the Affiliate Cases. Any actions with regard to the Remaining Matters, including claims reconciliation with respect to claims against any Reorganized Debtor, shall be filed, administered, and adjudicated in the Remaining Case without the need to reopen any Affiliate Case. Any failure of the Reorganized Debtors, or any entity authorized pursuant to the Plan, as applicable, to file an objection to any claim against or interest in any Reorganized Debtor on or prior to entry of this Final Decree shall not constitute allowance of the claim or interest and shall not result in such claim or interest being deemed allowed against or in any Reorganized Debtor. Any objections to claims against or interests in the Reorganized Debtors may be filed, administered, and adjudicated in the Remaining Case.

6. Within 21 days after entry of this Final Decree, the Reorganized Debtors of the Affiliate Cases shall file post-confirmation reports for the period from April 1, 2023, to the date this Final Decree is entered.

7. The Reorganized Debtors shall pay the appropriate sum of quarterly fees due and payable under 28 U.S.C. § 1930(a)(6)(A) and (B) for the Affiliate Cases by the later of (i) 21 days after the date of entry of the Final Decree and (ii) the date on which such quarterly fees are otherwise due. This Court shall retain jurisdiction to enforce fees assessed under 28 U.S.C. § 1930(a)(6)(A) and (B).

8. Quarterly disbursements for the Remaining Case will be reported in post-confirmation reports and quarterly fees will be paid when due and payable under 28 U.S.C. § 1930(a)(6)(A) and (B) pending the entry of a final decree by this Court closing the Remaining Case.

9. Entry of this Final Decree is without prejudice to (a) the rights of the Reorganized Debtors or any party in interest to seek to reopen any of the Affiliate Cases for cause pursuant to section 350(b) of the Bankruptcy Code, and (b) the rights of the Reorganized Debtors, or any entity authorized pursuant to the Plan, as applicable, to dispute any claims filed against the Reorganized Debtors in these Chapter 11 Cases, as provided in the Plan and the Confirmation Order. Notwithstanding anything to the contrary contained in the Plan, any failure of the Reorganized Debtors, or any entity authorized pursuant to the Plan, as applicable, to file an objection to a claim in the Reorganized Debtors' chapter 11 cases shall not constitute allowance of the claim and shall not result in such claim being deemed allowed against any Reorganized Debtor.

10. This Final Decree shall be effective and enforceable upon its entry.

11. The Reorganized Debtors and any entity authorized pursuant to the Plan, and their respective agents, are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Decree in accordance with the Motion.

12. Nothing in this Final Decree shall change the amount or nature of any distribution, or any other substantive rights, that any claim against or interest in any Debtor would have been entitled to under the Plan, the Confirmation Order, the Bankruptcy Code, the Bankruptcy Rules, or otherwise, had this Final Decree not been entered.

13. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Decree.

Dated: \_\_\_\_\_, 2023  
Houston, Texas

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DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE