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*Bruce T Beesley*

Honorable Bruce T. Beesley  
United States Bankruptcy Judge



Entered on Docket  
October 07, 2020

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
PHARMAGREEN BIOTECH, INC.,  
  
Debtor.

Case No. 20-50780-BTB  
Chapter 11

**ORDER GRANTING MOTION TO  
DISMISS BANKRUPTCY CASE**

Date of Hearing: September 30, 2020  
Time of Hearing: 2:00 p.m.

Judge: Hon. Bruce T. Beesley

On September 30, 2020 (“Hearing”), the Court conducted a hearing on the Motion to Dismiss Bankruptcy Case (“Motion”) [ECF No. 32]<sup>1</sup> filed by PowerUp Lending Group, Ltd. (“PowerUp”) and EMA Financial, LLC (“EMA”) (collectively with PowerUp, “Creditors”). The Motion sought dismissal of the Bankruptcy Case of debtor Pharmagreen Biotech, Inc. (“Debtor”) pursuant to 11 U.S.C. § 305(a) or alternatively pursuant to 11 U.S.C. § 1112(b) on the grounds

<sup>1</sup> All references to “ECF No.” are to the numbers assigned to the documents filed in the bankruptcy case identified in the caption above (“Bankruptcy Case”) as they appear on the docket maintained by the Clerk of the Court of the United States Bankruptcy Court for the District of Nevada.

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1 that Pharmagreen does not qualify as a debtor based on its contemplated business operations which  
2 include the cultivation and sale of marijuana.

3 At the Hearing, attorney Richard F. Holley, Esq. of the law firm Holley Driggs appeared  
4 on behalf of Creditors; attorney Thomas E. Crowe, Esq. appeared on behalf of Debtor Pharmagreen  
5 Biotech, Inc.; attorney Ryan J. Works, Esq. appeared on behalf of Auctus Fund, LLC; and all other  
6 appearances were noted on the record at the Hearing.

7 The Court has read and reviewed the Motion; the papers, pleadings, and declarations filed  
8 in support of and in opposition to the Motion; the papers and pleadings on file in this Bankruptcy  
9 Case; and all other matters identified by the Court at the Hearing. The Court has also heard the  
10 oral arguments of counsel who appeared on the record at the Hearing. Based upon the findings of  
11 fact and conclusions of law placed on the record at the Hearing, which are hereby expressly  
12 incorporated pursuant to Fed. R. Bankr. P. 9014(a) and (c), and good cause appearing:

13 **IT IS ORDERED** that the Motion to Dismiss Bankruptcy Case is **GRANTED**.

14 **IT IS FURTHER ORDERED** that the Court finds that cause exists warranting the  
15 dismissal of Debtor’s Bankruptcy Case under 11 U.S.C. § 1112(b) and also, alternatively, finds  
16 that dismissal of this Bankruptcy Case is appropriate under 11 U.S.C. § 305(a).

17 **IT IS FURTHER ORDERED** that the Bankruptcy Case of Debtor Pharmagreen Biotech,  
18 Inc. is hereby **DISMISSED**.

19 **IT IS FURTHER ORDERED** that this Court retains jurisdiction over any disputes arising  
20 from or related to this Order.

21 **IT IS SO ORDERED.**

22 Prepared and submitted by:

23 **HOLLEY DRIGGS**

24 /s/ Richard F. Holley  
25 Richard F. Holley, Esq. (NV Bar No. 3077)  
26 Mary Langsner, Ph.D. (NV Bar No. 13707)  
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**RULE 9021 CERTIFICATE**

In accordance with Local Rule 9021, counsel submitting this document certifies that the order accurately reflects the court’s ruling and that (check one):

- The Court has waived the requirements set forth in LR 9021(b)(1).
- No party appeared at the hearing or filed an objection to the motion
- I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

~~APPROVED/DISAPPROVED~~

~~APPROVED/DISAPPROVED~~

DID NOT RESPOND

/s/ Ryan J. Works

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*Counsel for Creditor Auctus Fund, LLC*

- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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/s/ Richard F. Holley

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