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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:)
)
Kao Saeteurn) Case No. 06-24828-B-7
) Docket Control No. BHS-1
Debtor.) Date: January 9, 2007
)
) Time: 9:30 a.m.

On or after the calendar set forth above, the court issued the following ruling. The official record of the ruling is appended to the minutes of the hearing.

Because the ruling constitutes a "reasoned explanation" of the court's decision under the E-Government Act of 2002 (the "Act"), a copy of the ruling is hereby posted on the court's Internet site, www.caeb.uscourts.gov, in a text-searchable format, as required by the Act. However, this posting does not constitute the official record, which is always the ruling appended to the minutes of the hearing.

DISPOSITION AFTER ORAL ARGUMENT

The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). In this instance, the court issues a tentative ruling.

The motion is granted in part to the extent set forth herein. The request to "strike" the inadvertently filed petition is denied. The court treats the motion as including a motion to dismiss this duplicate case and as so construed, the motion is

1 granted and the case is dismissed. The request to refund the
2 \$299 filing fee is denied without prejudice.

3 Movant provides no authority for this court to "strike" the
4 case. See LBR 9014-1(d) (5). Nor is the court aware of any.
5 Dismissal is the proper course of action. Pursuant to 11 U.S.C.
6 § 707(a), the court may dismiss a case for cause. Here, the
7 debtor has alleged without dispute that this case was filed in
8 error due to a clerical error, and that their other bankruptcy
9 case, filed under Chapter 7 on November 1, 2006, is currently
10 ongoing. Further, as a result of the filing of the prior case,
11 no bankruptcy estate to be administered came into existence on
12 the filing of this case. This is cause for dismissal.

13 Movant's request for a refund of the \$299 filing fee is
14 denied without prejudice. Movant provides no authority on the
15 issue. See LBR 9014-1(d) (5). The court is unaware of any such
16 authority, even when the case is filed in error.

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