UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

Update **April 10, 2025 at 11:00 a.m.**

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1. **24-25163-E-11** **AK INVESTMENTS, LLC** **CONTINUED STATUS CONFERENCE RE: COMPLAINT**
24-2212 **12-11-24 [1]**
CAE-1

U.S. TRUSTEE V. AK INVESTMENTS, LLC

Plaintiff's Atty: Jason M. Blumberg
Defendant's Atty: unknown

Adv. Filed: 12/11/24
Answer: none

Nature of Action:
Injunctive relief - other

Notes:
Continued from 3/5/25 to be conducted in conjunction with the hearing on the Motion for Entry of Default Judgment.

2. **24-25163-E-11** **AK INVESTMENTS, LLC** **MOTION FOR ENTRY OF DEFAULT JUDGMENT**
24-2212 **Pro Se**
UST-1 **2-13-25 [15]**

U.S. TRUSTEE V. AK INVESTMENTS, LLC

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Defendant-Debtor on February 13, 2025. By the court's calculation, 56 days' notice was provided. 28 days' notice is required.

The Motion for Entry of Default Judgment has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4004(a). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Entry of Default Judgment is granted.

Tracy Hope Davis, United States Trustee for Region 17 ("Plaintiff-Trustee"), filed the instant Motion for Default Judgment on February 13, 2025. Dckt. 15. Plaintiff-Trustee seeks an entry of default judgment against Debtor AK Investments, LLC ("Defendant") in the instant Adversary Proceeding No. 24-02212.

The instant Adversary Proceeding was commenced on December 11, 2024. Dckt. 1. The summons was issued by the Clerk of the United States Bankruptcy Court on December 12, 2024. Dckts. 3, 6. The complaint and summons were properly served on Defendant. *Id.*

Defendant failed to file a timely answer or response or request for an extension of time. Default was entered against Defendant pursuant to Federal Rule of Bankruptcy Procedure 7055 by the Clerk of the United States Bankruptcy Court on February 3, 2025. Dckt. 12.

REVIEW OF COMPLAINT

Plaintiff-Trustee filed a complaint for injunctive relief against Defendant. The Complaint contains the following general allegations as summarized by the court:

A. On the Petition Date, the Defendant filed (or caused to be filed) its Petition in the Current Case (ECF No. 1 in the Current Case) (the "Petition"). Compl. ¶ 9, Docket 1.

B. Defendant has not filed required Schedules and Statements in the Current Case, including (i) the verification and master address list, (ii) Schedule A/B, (iii) Schedule D, (iv) Schedule E/F, and (v) the Statement of Financial Affairs. *Id.* at ¶ 10.

C. The Petition bears the signature of Vishal V. Kaura as the Defendant's manager. *Id.* at ¶ 11. According to the Motion to Dismiss, the Defendant filed the Current Case to "halt a pending foreclosure sale of the Debtor's primary asset located at 1609 O Street, Sacramento, CA 95811." *Id.* at ¶ 13.

D. Besides the Current Case, the Defendant has filed at least two other cases in this District in 2024. *Id.* at ¶ 14.

E. Vera Holdings, LLC has filed three bankruptcy cases in this District in 2024 (the "Vera Holdings Cases"). *Id.* at ¶ 16. Upon information and belief, the Defendant and Vera Holdings, LLC are related entities. For instance, the Petition in Vera Holdings Case No. 24-23695 was signed by Vishal V. Kaura. *Id.* at ¶¶ 19-20.

F. Defendant owes $5,214 in filing fees for the Current Case and the Prior Cases. *Id.* at ¶ 25.

G. Under the totality of the circumstances, the Defendant filed the Petition for the Current Case in bad faith. In commencing the Current Case, the Defendant has unfairly manipulated, and continues to unfairly manipulate, the Bankruptcy Code. *Id.* at ¶¶ 27-28.

H. There is a substantial and strong likelihood that the Defendant will continue to file abusive bankruptcies that are marked by an intentional disregard of the law and a failure to perform the Defendant's legal duties as a debtor. *Id.* at ¶ 31.

I. Pursuant to 11 U.S.C. §§ 105 and 349, it is appropriate and warranted, under the circumstances described above, that the Court issue an injunction prohibiting the Defendant from filing or from causing to be filed, any subsequent petition for relief under the Bankruptcy Code, in the United States Bankruptcy Court for the Eastern District of California, for a period of two years without first obtaining permission of the Chief Bankruptcy Judge. *Id.* at ¶ 34.

Prayer

Plaintiff-Trustee requests the following entry of judgment in her favor:

A. prohibiting the Defendant from filing or from causing to be filed, any subsequent petition for relief under the Bankruptcy Code, in the United States Bankruptcy Court for the Eastern District of California, for a period of two-years without first obtaining permission of the Chief Bankruptcy Judge.

B. authorizing the Clerk of the Bankruptcy Court, and deputy clerks operating at the discretion and control of the Clerk of the Court, to reject any petition attempted to be filed by the Defendant during the two-year period if there is not prior authorization from the Chief Bankruptcy Judge.

C. granting any other relief that the Court deems just and appropriate.

Compl. 6:11-18.

Plaintiff-Trustee submits the Declaration of Laurie Brugger in support of the Motion. Docket 17. Ms. Brugger, a Senior Paralegal Specialist with the U.S. Trustee's office, testifies as to the authenticity of the facts alleged in the Motion. She authenticates the Exhibits in support of the Motion at Docket 18.

APPLICABLE LAW

Federal Rule of Civil Procedure 55 and Federal Rule of Bankruptcy Procedure 7055 govern default judgments. *Cashco Fin. Servs. v. McGee (In re McGee)*, 359 B.R. 764, 770 (B.A.P. 9th Cir. 2006). Obtaining a default judgment is a two-step process which requires: (1) entry of the defendant's default, and (2) entry of a default judgment. *Id.*

Even when a party has defaulted and all requirements for a default judgment are satisfied, a claimant is not entitled to a default judgment as a matter of right. 10 MOORE'S FEDERAL PRACTICE—CIVIL ¶ 55.31 (Daniel R. Coquillette & Gregory P. Joseph eds. 3d ed.). Entry of a default judgment is within the discretion of the court. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). Default judgments are not favored, because the judicial process prefers determining cases on their merits whenever reasonably possible. *Id.* at 1472. Factors that the court may consider in exercising its discretion include:

(1) the possibility of prejudice to the plaintiff,
(2) the merits of plaintiff's substantive claim,
(3) the sufficiency of the complaint,
(4) the sum of money at stake in the action,
(5) the possibility of a dispute concerning material facts,
(6) whether the default was due to excusable neglect, and
(7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Id. at 1471–72 (citing 6 MOORE'S FEDERAL PRACTICE—CIVIL ¶ 55-05[s], at 55-24 to 55-26 (Daniel R. Coquillette & Gregory P. Joseph eds. 3d ed.)); *Kubick v. FDIC (In re Kubick)*, 171 B.R. 658, 661–62 (B.A.P. 9th Cir. 1994).

In fact, before entering a default judgment the court has an independent duty to determine the sufficiency of Plaintiff-Trustee's claim. *Id.* at 662. Entry of a default establishes well-pleaded allegations

as admitted, but factual allegations that are unsupported by exhibits are not well pled and cannot support a claim. *In re McGee*, 359 B.R. at 774. Thus, a court may refuse to enter default judgment if Plaintiff-Debtor did not offer evidence in support of the allegations. *See id.* at 775.

DISCUSSION

Plaintiff-Trustee asserts that Defendant commenced the case as an abuse to the bankruptcy system, including by filing serial petitions without actually prosecuting the cases to avail itself of the automatic stay. Plaintiff-Trustee has submitted evidence to support this allegation, including evidence of the serial filings with this Debtor-Defendant, and related serial filings by the same managing member of the Defendant in the Vera Cases. Defendant has filed the following petitions in the past year without an attempt made to prosecute the cases:

A. Case No. 24-23560
   1. Filed: August 12, 2024
   2. Chapter 11
   3. Dismissal Date: August 26, 2024
   4. Reason for Dismissal: Failure to timely file documents

B. Case No. 24-24458
   1. Filed: October 3, 2024
   2. Chapter 11
   3. Dismissal Date: October 15, 2024
   4. Reason for Dismissal: Failure to timely file documents

C. Case No. 24-25163 (most recent case)
   1. Filed: November 14, 2025
   2. Chapter 11
   3. Dismissal Date: February 14, 2025
   4. Reason for Dismissal: Debtor was not represented by legal counsel

11 U.S.C. § 349(a) states:

> (a)Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

This section permits the court ordering a bar to refiling, for cause. *See In re Leavitt*, 171 F.3d 1219, 1224 (9th Cir. 1999). Collier's Treatise has stated on the subject:

> Although the general rule of section 349(a) is that dismissal of a case is without prejudice, the court is given the discretion to order otherwise for cause. Thus, when dismissal is predicated on grounds that would justify barring the debtor from discharge in the dismissed case or in a subsequent case, the court has the power to dismiss a case with prejudice. But even a voluntary dismissal can be with prejudice if the facts warrant it. This rule must be limited by the requirements of due process.

> A summary finding of conduct that would bar a discharge under section 727 and a dismissal on that or any other ground may deny a debtor due process if the summary finding would thereafter have the same effect in a later case as a denial of discharge under section 727. Accordingly, the courts should proceed with caution in this area, and dismiss with prejudice only when the debtor's conduct is particularly egregious. As the Court of Appeals for the Tenth Circuit held in *Hall v. Vance*, dismissal with prejudice is a severe sanction to which courts should resort only infrequently. The court found that it should occur only if there has been both bad faith and prejudice to creditors. Moreover, a dismissal with prejudice should be ordered only after full opportunity for a hearing similar to the opportunity provided on a complaint under section 727 for denial of discharge. It also held that the proponent of dismissal with prejudice has the burden of persuasion.

3 COLLIER ON BANKRUPTCY ¶ 349.02[2].

Here, Plaintiff-Trustee has demonstrated Defendant has engaged in egregious conduct meriting a bar to refiling. Defendant has filed three cases of its own in the past year without any efforts to reorganize, not even paying the filing fee in the cases. Moreover, Defendant's responsible representative Vishal V. Kaura filed cases on behalf of another entity, Vera Holdings, LLC, that resulted in the same outcome with a bar to refiling. Defendant's responsible representative Vishal V. Kaura is not an attorney and has been engaging in the unauthorized practice of law filing these cases on behalf of multiple LLCs. This conduct is especially egregious and merits granting a bar to refiling.

CONCLUSION

The court finds that Plaintiff-Trustee has sufficiently shown that Defendant's conduct is especially egregious, meriting a two-year bar to refiling without first obtaining permission of the Chief Bankruptcy Judge.

The court finds that the Complaint is sufficient, and the requests for relief requested therein are meritorious. The court has not been shown that there is or may be any dispute concerning material facts. Defendant has not contested any facts in this Adversary Proceeding, being given due process and a reasonable opportunity to contest these allegations.

The court finds that ordering a bar to refiling for Debtor AK Investments, LLC for a period of two years without first obtaining permission of the Chief Bankruptcy Judge is merited under 11 U.S.C. § 349. [Fn.1.]

FN.1. The court notes that the Complaint seeks, and this ruling grants, a bar to refiling for two years only against Debtor AK Investments, LLC. Debtor's responsible representative Vishal V. Kaura is not named in the Complaint.

Attorney's Fees and Costs, if any, may be sought pursuant to post-judgment costs bill(s) and motion for prevailing party attorney's fees and costs (if any are allowable under applicable law).

The court does not award punitive damages.

The court grants the default judgment in favor of Plaintiff-Trustee.

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Default Judgment filed by Tracy Hope Davis, United States Trustee for Region 17 ("Plaintiff-Trustee"), having been presented to the court, no opposition having been filed by Debtor AK Investments, LLC ("Defendant"), and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Entry of Default Judgment is granted and Debtor AK Investments, LLC is barred form refiling another bankruptcy case for a period of two years without first obtaining permission of the Chief Bankruptcy Judge in the District in which said future case is to be filed.

Attorney's Fees and Costs, if any, may be sought pursuant to post-judgment costs bill(s) and motion for prevailing party attorney's fees and costs (if any are allowable under applicable law).

No other relief is granted pursuant to the Motion for Entry of Default Judgment.

Plaintiff-Trustee shall prepare and lodge with the court a proposed judgment consistent with this Order.

3.	**24-22531-E-11** **RLC-1**	**R & A ENTERPRISES, LLC** **Stephen Reynolds**	**CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR ORDER GRANTING REPLACEMENT LIENS , MOTION FOR ORDER APPROVING DIP BUDGET** **6-12-24 [14]**

THE COURT HAS A HIGH DEGREE OF CONFIDENCE THAT THE REVIEW OF THIS TENTATIVE RULING WILL BE A WRY SMILE AND SHAKE OF THE HEAD FOR THE RESPECTIVE COUNSEL

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor in Possession's Attorney, creditors, attorneys of record who have appeared in the case, parties requesting special notice, and Office of the United States Trustee on June 13, 2024. By the court's calculation, 28 days' notice was provided. 28 days' notice is required. Fed. R. Bankr. P. 4001(b)(2) (requiring fourteen days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Authority to Use Cash Collateral has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Authority to Use Cash Collateral, including the granting of replacement liens, is xxxxxxx.

April 10, 2025 Hearing

The court continued the hearing as the parties agreed to extend the use of cash collateral, pursuant to the existing stipulation and order, with some minor "tweaks" through April 15, 2025. On April 8, 2025, the Third Stipulation for Use of Cash Collateral was filed by the Parties. Dckt. 102.

Before reviewing the terms of the Stipulation, the court notes that the Stipulation is made between the **DEBTOR** and Creditor, and that it is the **DEBTOR** is the entity authorized to use cash collateral. However, the **DEBTOR** is not in possession of the cash collateral and the Bankruptcy Code does

not authorize the **DEBTOR** to use property of the Bankruptcy Estate. See 11 U.S.C. § 1184 providing that the **DEBTOR IN POSSESSION**[1] shall have the rights, powers, and responsibilities of a Chapter 11 trustee, and not the "mere" Debtor.

The terms of the Stipulation, between the Debtor and Creditor, are:

A. The use is authorized for the budget which is attached as Exhibit 1 to the Stipulation.

B. There is a 20% variation allowed for budget line items, and no more than a total 20% variation in the total monthly budget amount without Creditor's further authorization.

C. Creditor is granted replacement liens to protect from a diminution of its collateral through the use of the cash collateral.

D. The **DEBTOR** will make monthly payments of $30,643.79 to Creditor.

E. The use is authorized through September 30, 2025.

F. The authorization to use cash collateral terminates if the **DEBTOR** defaults in payments, the case is converted or dismissed, or the insurance lapses.

At the hearing, **xxxxxxx**

REVIEW OF THE MOTION

R & A Enterprises, LLC ("Debtor/Debtor in Possession") moves for an order approving the use of cash collateral. Debtor in Possession is a Limited Liability Company that has built and opened a car wash business in Yreka, California, called Splash and Dash Car Wash ("Car Wash"). Debtor obtained an SBA guaranteed loan from Patriot Bank, N.A. ("Creditor"), and used the proceeds to build the Car Wash and begin operations in 2022.

Creditor is secured by the real property commonly known as 1902 Fort Jones Rd., Yreka California 96097, all assets and personal property owned or acquired by Debtor in Possession, and for which John J. Richter has given his personal guarantee.

Debtor/Debtor in Possession requests the use of cash collateral to continue operations of the car wash and to administer and preserve the value of the Estate. Mot. 3:21-24, Docket 14.

Debtor/Debtor in Possession and Creditor agree to authorized the used of Cash Collateral through and including March 31, 2025, in the same amounts as authorized for the Month of February 2025, on the same terms and conditions as authorized by the court for the prior order for the use of cash collateral.

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[1]The respective counsel are very experienced and well respected as setting high standards of professionalism in the practice of law. No one would ever call either of them a Doofus, Butt the distinction between the Debtor and the Debtor in Possession must be respected, especially in light of other attorneys looking up to them for guidance in the practice of bankruptcy law

The Motion for Authority to Use Cash Collateral, including the granting of replacement liens, is granted for the period through March 31, 2025. The Cash Collateral to be used is for the same amounts as provided for February 2025 in this court's prior order.

The hearing on the Motion for Authority to Use Cash Collateral Liens is continued to 10:30 a.m on March 27, 2025.

February 27, 2025 Hearing

The court continued the hearing as the Parties reported that they were still working on the final terms for a stipulated further use of cash collateral.

Supplemental Pleadings, if any, in support of the further use of cash collateral if there is not a stipulation with Creditor for such use were to be filed and served on or before February 18, 2025. Opposition pleadings shall be filed and served on or before February 24, 2025.

A review of the Docket on February 24, 2025 reveals nothing further has been filed with the court. At the hearing, counsel for Creditor and counsel for Debtor agreed to extend the use of cash collateral through March 31, 2025.

At the hearing the Debtor/Debtor in Possession and Creditor agreed to extend the use of Cash Collateral through March 31, 2025, with the amounts to be the same as provided for the Month of February 2025, pursuant to this court's prior order.

The Motion for Authority to Use Cash Collateral, including the granting of replacement liens, is granted for the period through March 31, 2025. The Cash Collateral to be used is for the same amounts as provided for February 2025 in this court's prior order (See Stipulation; Dckt. 76).

The hearing on the Motion for Authority to Use Cash Collateral Liens is continued to 10:30 a.m on March 27, 2025.

March 27, 2025 Hearing

The court continued the hearing as the Parties agreed to extend the use of Cash Collateral through March 31, 2025, with the amounts to be the same as provided for the Month of February 2025, pursuant to this court's prior order pending a Stipulation of the Parties.

As of the court's review of the Docket on March 24, 2025, nothing new has been filed with the court relating to the use of cash collateral. There is a Motion to Employ on file to hire a broker to sell the business. Docket 92.

At the hearing, the parties agreed to extend the use of cash collateral, pursuant to the existing stipulation and order, with some minor "tweaks" through April 15, 2025.

The hearing on the Motion to Use Cash Collateral is continued to 11:00 a.m. on April 10, 2025.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Authority to Use Cash Collateral filed by R & A Enterprises, LLC ("Debtor/Debtor in Possession") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion is **XXXXXXX**.