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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND TRUSH,

Plaintiff,

No. CIV S-09-3519 GEB KJM

vs.

NATIONAL CREDIT WORKS, INC.

Defendant.

ORDER

_____/

Plaintiff's motion for default judgment is pending before the court. On March 3, 2010, plaintiff filed a request for entry of default. The executed summons filed in this case on January 18, 2010, indicates summons was served on Suzanne Weingarten, Managing Agent of Cohen & Lombardo, P.C., in Buffalo, New York. The executed summons states Cohen & Lombardo are the "Attorneys of Record." There is no evidence in the file that any attorney has appeared for defendant in this action or that defendant is represented by Cohen & Lombardo or has authorized this entity to accept service on its behalf. The corporation records of the Secretary of State for New York state defendant National Credit Works, Inc. is registered as "active" in New York, has no registered agent for service of process and the CEO is Gregory Emminger. The records of the Secretary of State for California list CSC-Lawyers Incorporating Service at an address on Gateway Oaks in Sacramento, California as the agent for service of

1 process for defendant in California. It appears, therefore, that service of summons has not been
2 properly effected under Federal Rule of Civil Procedure 4. The entry of default will therefore be
3 stricken and the motion for default judgment denied without prejudice.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The entry of default (docket no. 9) is vacated; and
- 6 2. The motion for default judgment (docket no. 14) is denied without prejudice.

7 DATED: May 14, 2010.

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U.S. MAGISTRATE JUDGE

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