IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

In re: RAILYARD COMPANY, LLC

Debtor. Bankruptcy No. 15-12386-t11

RICK JARAMILLO,

Appellant,

v. 1:16-cv-00990-MV-LF

CHAPTER 11 TRUSTEE CRAIG H. DILL,

Appellee.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER comes before the Court on two *sua sponte* orders to show cause issued to pro se appellant Rick Jaramillo. Docs. 3, 4. The Court issued the first order to show cause because Mr. Jaramillo failed to submit his designation of items to be included in the record on appeal and his statement of the issues as required by FED. R. BANKR. P. 8009, and failed to pay the required appeal filing fee. Doc. 3 ("first order"). The record indicates that the first order was sent to Mr. Jaramillo via his email address of record. There is no indication that Mr. Jaramillo did not receive the first order to show cause. Mr. Jaramillo was required to respond to the first order by December 5, 2016, but failed to do so. Accordingly, the Court issued a second order to show cause for Mr. Jaramillo's failure to comply with the Court's first order. Doc. 4 ("second order"). Mr. Jaramillo was required to respond to the second order by March 1, 2017. *Id*. The record indicates that the second order was sent to Mr. Jaramillo via his email address of record, and was mailed to him at his mailing address of record. There is no indication that Mr. Jaramillo did not receive the second order to show cause. Nonetheless, Mr. Jaramillo failed to respond to the second order to show cause, in violation of that order.

"The Federal Rules of Civil Procedure authorize sanctions, including dismissal . . . for failing to comply with court rules or any order of the court." *Gripe v. City of Enid, Okl.*, 312 F.3d 1184, 1188 (10th Cir. 2002) (citing FED. R. CIV. P. 41(b)). In addition, local rules allow this Court to dismiss a civil action if, for a period of 90 days, no steps are taken to move the case forward. D.N.M. LR-Civ. 41.1. Mr. Jaramillo did not respond to either order to show cause, and has taken no steps to move his case forward since he filed his appeal on September 2, 2016. Accordingly, I recommend that the Court dismiss his bankruptcy appeal with prejudice.

IT IS FURTHER ORDERED that the Clerk of the Court mail a copy of the Proposed Findings and Recommended Disposition to Mr. Jaramillo at his address of record.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition, they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1)(C). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.

Laura Fashing
United States Magistrate Judge