

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:)	
)	
ANTONY LE,)	
)	
Debtor.)	
_____)	1:18-cv-01532 (LMB/TCB)
)	
DONALD F. KING, TRUSTEE,)	18-01055-KHK
)	
Plaintiff,)	
)	
v.)	
)	
FANG-LING CHEN,)	
)	
and)	
)	
FANG-LING NAILS & SPA, LLC,)	
)	
Defendants.)	

ORDER

Before the Court is a Report and Recommendation (“Report”) issued by a bankruptcy judge on November 20, 2018 [Dkt. No. 2], which recommends that default judgment be entered in this adversary action against defendants Fang-Ling Chen and Fang-Ling Nails & Spa, LLC (“defendants”) and that plaintiff Donald F. King, Trustee (“plaintiff”) be awarded \$58,231.00 in damages and post-judgment interest. See Report 4. At issue is the allegation that defendants agreed to purchase from debtor Antony Le (“debtor”) all the assets of the business known as “Fang-Ling Nails & Spa” and that defendants failed to pay the amounts due to the debtor under a Purchase Money Note. Id. at 2–3. The parties were advised that any objections to the Report had to be filed within 14 days and that failure to file a timely objection waived the right to appeal the

substance of the Report and any judgment based upon the Report. As of December 16, 2018, no party has filed an objection. The Court has reviewed the Report and adopts the Report in full.

The bankruptcy judge correctly determined that the Court has subject matter jurisdiction over this action under 28 U.S.C. § 1334(b), and that this is a core proceeding under 28 U.S.C. § 157(b)(2)(A). The bankruptcy court issued the Report pursuant to McCarthy v. Wells Fargo Bank, N.A. (In re El-Atari), No. 1:11cv1090, 2011 WL 5828013 (E.D. Va. Nov. 18, 2011).

Debtor filed a Chapter 7 bankruptcy petition on August 17, 2016. Report 2. On May 9, 2018, plaintiff filed this adversary proceeding to recover funds owed to the debtor by defendants. Id. at 3 [Bankr. Dkt. No. 1]. The Summons and Complaint were properly served on defendants via first class mail on May 14, 2018. Id. [Bankr. Dkt. No. 5]. Defendants failed to answer, and the Clerk entered default against defendants on June 29, 2018. Id. [Bankr. Dkt. Nos. 7–8]. Plaintiff filed a Motion for Default Judgment on August 2, 2018 [Bankr. Dkt. No. 11], and defendants subsequently failed to appear at the hearing. Id. [Bankr. Dkt. No. 13]. The bankruptcy judge found that summons was properly served on defendants, that defendants failed to answer, and that the amount sought was for a sum certain; therefore, the bankruptcy judge recommended that plaintiff's Motion for Default Judgment be granted and a money judgment in the amount of \$58,231.00, including post-judgment interest at the federal judgment rate, be entered for plaintiff. Id. at 3–4.

Having fully reviewed the Report, the Court adopts the findings of fact and conclusions of law contained in the Report as its own. Accordingly, plaintiff's Motion for Entry of Default Judgment [Bankr. Dkt. No. 11] is GRANTED, and it is hereby

ORDERED that default judgment in the amount of \$58,231.00 be and is entered in favor of plaintiff Donald F. King, Trustee and against defendants Fang-Ling Chen and Fang-Ling


Nails & Spa, LLC, jointly and severally with interest to accrue post-judgment at the federal judgment rate provided in 28 U.S.C. § 1961.

To appeal this decision, a party must file a written Notice of Appeal with the Clerk of this Court within 30 days of the date of the entry of this Order. A written Notice of Appeal is a short statement stating a desire to appeal an order and identifying the date of the order the party wants to appeal. Failure to file a timely Notice of Appeal waives the right to appeal this decision.

The Clerk is directed to enter judgment in favor of plaintiff and to forward copies of this Order to counsel of record and defendants, pro se at their addresses of record, and to close this civil action.

Entered this ¹⁷17 day of December, 2018.

Alexandria, Virginia


/s/ _____
Leonie M. Brinkema
United States District Judge