

Case 2:05-cv-01072-RSWL Document 16 Filed 11/14/2005 Page 1 of 4

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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IN RE: REED E. SLATKIN,)
et al.,)

Debtor.

ANTHONY HITCHMAN
MARGARET HITCHMAN

Appellants,

v.

R. TODD NEILSON,
Chapter 11 Trustee

Appellee.

CV 05-01071 RSWL
CV 05-01072 RSWL ✓

AD 02-01111
AD 02-01111

ND 01-11549 RR
ND 01-11549 RR

CONSOLIDATED ORDER

ENTERED
CLERK, U.S. DISTRICT COURT
NOV 15 2005
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

This is an appeal from the Bankruptcy Court's grant of Summary Judgment in a case arising from the bankruptcy proceedings of Reed Slatkin. Appellants are Anthony and Margaret Hitchman, individuals allegedly defrauded by Reed Slatkin after giving him money to invest.

16

1 On November 27, 2002, the Trustee filed a Complaint
 2 against Appellants to set aside and recover fraudulent
 3 transfers in the amount of false profits (\$2,291,156.40) and
 4 return of principal (\$370,000.00).

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5
 6 On May 28, 2004, the Trustee moved for summary
 7 judgment. On September 13, 2004, the Hitchmans filed an
 8 Opposition. On October 29, 2005, the Bankruptcy Court
 9 granted the Trustee's Motion for Summary Judgment for
 10 \$2,661,156.40, not including pre-judgment and post-judgment
 11 interest.

12
 13 Appellants appeal. The Hitchmans filed their Opening
 14 Brief on April 6, 2005. Appellee filed its Reply Brief on
 15 April 25, 2005.

16
 17 Appellants argue that genuine issues of material fact
 18 exist making the Bankruptcy Court's entry of Summary
 19 Judgment inappropriate. Appellants also argue that the
 20 declarations they submitted supporting their Opposition to
 21 the Appellee's Motion for Summary Judgment should not have
 22 been disregarded.

23
 24 **THE COURT NOW RULES AND ORDERS AS FOLLOWS:**

25
 26 As a preliminary matter, this Court treats the appeals

1 for Anthony and Margaret Hitchman as consolidated. This
2 consolidated order shall be effective for both cases.

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3
4 Appellate courts review a trial court's application of
5 local rules for abuse of discretion. See Guam Sasaki Corp.
6 v. Diana's Inc., 881 F.2d 713, 716 (9th Cir. 1989) ("[I]n
7 reviewing rulings of the district court regarding local
8 practice and local rules, the appropriate standard of review
9 is abuse of discretion."); Miranda v. Southern Pacific
10 Transp. Co., 710 F.2d 516, 521 (9th Cir. 1983) (District
11 Courts have broad discretion in interpreting and applying
12 their local rules.").

13
14 The Court finds that the Bankruptcy Court did not abuse
15 its discretion when it applied Local Bankruptcy Rule 9013-
16 1(a)(14) finding that the Hitchmans had consented to an
17 adverse ruling on the Summary Judgment motion when they
18 failed to appear at the hearing without receiving prior
19 permission from the Bankruptcy Court.

20
21 Here, the Bankruptcy Court applied Local Bankruptcy
22 Rule 9013-1(a)(14), which states that "[f]ailure of any
23 counsel to appear, unless excused by the court in advance,
24 may be deemed consent to a ruling upon the motion adverse to
25 the counsel's position." LRB 9013-1(a)(14).

26

1 Acting pro se, the Hitchmans failed to appear without
 2 prior permission from the Court. Having failed to comply
 3 with the local rules regarding appearances at hearings, the
 4 Court disregarded the Hitchmans' declarations and granted
 5 Summary Judgment in favor of the Trustee.

6
 7 In finding that the Bankruptcy Court was within its
 8 discretion to grant the Trustee's Motion for Summary
 9 Judgment on the Appellants' failure to comply with local
 10 procedural rules, this Court need not further explore the
 11 substantive issues raised by the Appellants' brief.

12
 13 Accordingly, this Court AFFIRMS the Bankruptcy Court's
 14 judgment in its entirety, finding that it was within its
 15 discretion when it granted the Trustee's Motion for Summary
 16 Judgment for the Appellee's failure to comply with Local
 17 Bankruptcy Rule Rule 9013-1(a)(14)

18
 19 IT IS SO ORDERED.

20 RONALD S.W. LEW
 21 RONALD S.W. LEW
 22 United States District Judge

23 DATED: Nov 10, 2005