

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

C.E.F. FUNDING, L.L.C.,
A DELAWARE LIMITED LIABILITY COMPANY,
Plaintiff,

vs.

Case No. 09-2647-JTM

BECHUCK ENTERPRISES, INC.,
A NEVADA CORPORATION, *ET AL.*,
Defendants.

MEMORANDUM AND ORDER

Two motions are before the court in this action by plaintiff C.E.F. Funding, Inc. (CEFF). CEFF has sought separate summary judgment motions against both the corporate defendants (Bechuck Enterprises, T.W.A. Management Services, Studdard Enterprises, and I. Horton Enterprises) and against the individual defendants (Stephen Bechuck, Irvin E. Horton, Jr., and Brian W. Studdard) (Dkt. 30).

In the first motion, CEFF seeks judgment against the corporate defendants pursuant to the 19010 Note and Guaranty agreements, noting in its motion that these defendants have acknowledged their default and the outstanding sum owed by the debtor, Black Angus. (Dkt. 25, at 2). CEFF seeks \$931,436.63 in damages as of September 30, 2009, together with interest accruing after that date, pre- and post-judgment interest, its

attorneys' fees and costs. The motion notes that the corporate defendants have failed to plead or otherwise appear, with the exception of a brief appearance by counsel who was subsequently permitted to withdraw. (Dkt. 20, 21).

On May, 12, 2011, the court specifically directed that the corporate defendants' response to the summary judgment motion "shall be filed no later than June 15, 2011." (Dkt. 29). The corporate defendants have filed no subsequent response to the Motion for Summary Judgment, or otherwise attempted to defend the action.

In its second motion, CEFF seeks summary judgment against the individual guarantor defendants, noting that these defendants issued personal guaranties in support of the Master Loan Agreement with Black Angus. The plaintiff states as an uncontroverted fact that as of April 20, 2011, \$2,205,327.99 remains due and owing on the underlying loans, along with costs, expenses and attorneys' fees. CEFF seeks judgment against the defendants, jointly and severally:

A. That judgment be entered in favor of CEFF and against Stephan Bechuck, on the Master Loan Agreement and 19010 Note in the sum of \$995,504.19 (which includes principal, interest, pre-payment premiums, late fees, and processing fees through April 30, 2011), plus interest at the rate of \$197.37 per diem from and after April 30, 2011, and post-judgment interest from and after the date of judgment at the rate of \$197.37 per diem; on the 19011 Note and Bechuck Guaranty in the sum of \$1,209,823.80 (which represents the principal, interest, prepayment premiums, late fees, and processing fees through April 30, 2011), plus interest at the rate of \$241.58 per diem from and after April 30, 2011, post-judgment interest from and after the date of judgment at the rate of \$241.58 per diem; plus reasonable attorneys' fees in the amount of \$16,516.70, and costs of this action in the amount of \$987.94;

B. That judgment be entered in favor of CEFF and against Irvin E. Horton, Jr., on the Master Loan Agreement and 19010 Note in the sum of \$995,504.19

(which includes principal, interest, pre-payment premiums, late fees, and processing fees through April 30, 2011), plus interest at the rate of \$197.37 per diem from and after April 30, 2011, and post-judgment interest from and after the date of judgment at the rate of \$197.37 per diem; on the 19011 Note and Horton Guaranty in the sum of \$1,209,823.80 (which represents the principal, interest, prepayment premiums, late fees, and processing fees through April 30, 2011), plus interest at the rate of \$241.58 per diem from and after April 30, 2011, post-judgment interest from and after the date of judgment at the rate of \$241.58 per diem; plus reasonable attorneys' fees in the amount of \$16,516.70, and costs of this action in the amount of \$987.94;

C. That judgment be entered in favor of CEFF and against Brian W. Studdard, on the Master Loan Agreement and 19010 Note in the sum of \$995,504.19 (which includes principal, interest, pre-payment premiums, late fees, and processing fees through April 30, 2011), plus interest at the rate of \$197.37 per diem from and after April 30, 2011, and post-judgment interest from and after the date of judgment at the rate of \$197.37 per diem; on the 19011 Note and Studdard Guaranty in the sum of \$1,209,823.80 (which represents the principal, interest, prepayment premiums, late fees).

(Dkt. 30, at 6-7).

Both for good cause shown and pursuant to D.Kan.R. 7.4, the court finds that CEFF is entitled to summary judgment on the grounds and in the amounts sought.

IT IS ACCORDINGLY ORDERED this 14th day of July, 2011, that plaintiff's Motions for Summary Judgment (Dkt. 25, 30) are granted, and the court directs the entry of judgment against the respective defendants in the manner provided herein.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE