

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THOMAS L. TAYLOR III, solely in his	§	
capacity as Court-appointed Receiver for	§	
Kaleta Capital Management, Inc., <i>et al.</i> ,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-15-0272
	§	(Receivership Action)
DAVID G. WALLACE, <i>et al.</i> ,	§	
Defendants.	§	

FINAL JUDGMENT
AGAINST DEFENDANT COSTA BAJJALI

This case is before the Court on Plaintiff and Court-Appointed Receiver Thomas L. Taylor, III's (the "Receiver")¹ Motion for Partial Summary Judgment ("Motion") [Doc. # 15], seeking judgment as a matter of law against Defendants David G. Wallace ("Wallace") and Costa Bajjali ("Bajjali"). Defendant Wallace, who appeared in this case *pro se*, filed for bankruptcy protection on March 24, 2015, in the Southern District of Texas, Houston Division. Bankruptcy Case No. 15-31594-H4-7. *See* Notice of Initiation of Proceeding Under the Bankruptcy Code [Doc. # 21]. Due to the Bankruptcy Code automatic stay, 11 U.S.C. § 362, no relief against Wallace may be granted at this stage. Defendant Bajjali has not filed for bankruptcy protection.

¹ Taylor was appointed as receiver for Kaleta Capital Management, Inc., BusinessRadio Network, LP, Daniel Frishberg Financial Services, Inc. and any entities they own or control by Order of this Court in the related action styled *Securities and Exchange Commission v. Albert Fase Kaleta, et al.*, Civil Action No. 4:09-cv-03674 (the "Enforcement Action") [Enforcement Action Doc. # 7, as modified by Doc. # 34].

Bajjali, also appearing *pro se*, failed to respond to the Receiver's Motion, even after the Court, at Bajjali's request, extended the response deadline to April 13, 2015. *See* Hearing Minutes and Order [Doc. # 22]. Pursuant to the Local Rules of the United States District Court for the Southern District of Texas, failure to respond to a motion is taken as a representation of no opposition. S.D. TEX. R. 7.3, 7.4. Notwithstanding that no response was filed, the Court considered the merits of the Receiver's Motion, *Resolution Trust Corp. v. Starkey*, 41 F.3d 1018, 1022-23 (5th Cir. 1995), and on April 17, 2015 entered a Memorandum and Order granting the Receiver summary judgment against Bajjali [Doc. # 24].

At this time, the Receiver seeks judgment against Defendant Bajjali in the amount of \$870,176.35 in principal, plus \$641,322.02 in accrued interest through January 29, 2015, plus \$302.11 per day from January 30, 2015 until the date of entry of this Final Judgment.²

The Receiver's Motion was properly served on Bajjali on March 9, 2015. No response has been filed. Having considered all matters of record, the arguments of counsel, and the applicable legal authorities, it is hereby

² With respect to two guaranty agreements related to promissory notes executed by Defendant Laffer Frishberg Wallace Economic Opportunity Fund, L.P. d/b/a LFW Economic Opportunity Fund ("LFW Fund"), Receiver seeks judgment in the amount of \$275,000.00 in principal, plus \$258,698.59 in accrued interest through January 29, 2015, plus \$122.74 per day from January 30, 2015 until the date of entry of this Final Judgment. Default judgment has been entered in this case against LFW Fund [Doc. # 23].

With respect to three guaranty agreements related to promissory notes executed by Defendant West Houston WB Reality Fund, L.P. ("West Houston Fund"), Receiver seeks judgment in the amount of \$595,176.35 in principal, plus \$382,623.43 in accrued interest through January 29, 2015, plus \$179.37 per day from January 30, 2015 until the date of entry of this Final Judgment. West Houston Fund filed for bankruptcy protection on April 2, 2015.

ORDERED, ADJUDGED, and DECREED that the Receiver's motion [Doc. # 15] is **GRANTED** with respect to Defendant Bajjali, and **DENIED without prejudice** regarding Defendant Wallace. It is further

ORDERED, ADJUDGED, and DECREED that judgment is hereby rendered in favor of the Receiver and against Defendant Bajjali in the amount of \$_____ (the "Judgment Amount"), consisting of \$870,176.35 in principal, plus \$_____ in accrued interest through the date of this Final Judgment. It is further

ORDERED, ADJUDGED, and DECREED that post-judgment interest shall accrue at the rate of 0.26% per annum, in accordance with 28 U.S.C. § 1961, from the date of entry of this Final Judgment until the Judgment Amount and accrued interest are paid in full by Defendant Bajjali to the Receiver. It is further

ORDERED, ADJUDGED, and DECREED that the Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

There being no just reason for delay in the entry of this Final Judgment, the Court hereby directs the clerk to enter judgment as to Defendant Bajjali pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

SIGNED at Houston, Texas this _____ day of April, 2015.

NANCY F. ATLAS
UNITED STATES DISTRICT JUDGE