

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

Case No. 3:04-bk-09350
Chapter 7

ROBERT L. ALLATIN,

Debtor.

PHH HOMEQUITY n/k/a
CENDANT MOBILITY SERVICES
CORPORATION,

Plaintiff,

vs.

Adv. Proc. No. 3:04-ap-0402-JAF

ROBERT L. ALLATIN,

Defendant.

FINAL JUDGMENT AFTER ENTRY OF DEFAULT

THIS CAUSE came before the Court upon a motion filed by Plaintiff, PHH Home Equity n/k/a Cendant Mobility Services Corporation's ("Cendant") after an entry of default against Defendant Robert L. Allatin ("Allatin") entered by this Court on January 4, 2006 based upon Allatin's failure to: comply with this Court's October 27, 2005 order compelling discovery; produce the documents requested in Cendant's First Request for Production of Documents; or appear at the December 21, 2005 hearing. This Court having reviewed the file and having been fully advised on the premises finds:

1. On June 1, 2005, Cendant served Allatin with a First Request for Production of Documents.

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FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

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2. On June 22, 2005, Cendant filed a Motion for Entry of Default by the Court based on Allatin's failure to file an Answer to the Adversarial Complaint. Thereafter, Allatin filed his Answer.

3. On July 6, 2005, this Court entered an Order denying Cendant's Motion for Entry of Default.

4. Allatin failed to respond to Cendant's production request and failed to produce all responsive documents.

5. On September 6, 2005, Cendant filed its Motion to Compel Discovery and For Sanctions and, on September 16, 2005, Cendant filed an Amended Motion to Compel Discovery.

6. On October 27, 2005 this Court partially granted and partially denied Cendant's Amended Motion to Compel Discovery. Specifically, this Court granted Cendant's Amended Motion to Compel Discovery and ordered Allatin to respond to the production request by producing all responsive documents within fifteen (15) days from the date of the Court's Order, or by November 11, 2005. The Court denied Cendant's request for sanctions as Cendant did not notice the deposition of Allatin to be taken on a specific time and place.

7. Allatin did not comply with this Court's Order by producing all responsive documents to the production request within the time required by the Order. Moreover, Allatin did not seek an extension of time within which to do so.

8. On November 30, 2005, Cendant filed a Second Motion to Compel Discovery and for Sanctions, in which it asked this Court to again compel Allatin to respond to Cendant's production request and produce all responsive documents. On December 12, 2005, Cendant received an order scheduling the hearing on Cendant's motion for December 21, 2005 at 9:00 a.m.

9. Despite being properly sent notice, Allatin did not appear at the December 21, 2005 hearing.

10. Thereafter, on January 4, 2006, this Court entered an Order consistent with its ruling at the December 21, 2005 hearing. The Order provides: (a) Allatin failed to appear at the Court ordered hearing on December 21, 2005; (b) Cendant made a good faith effort to obtain disclosure or discovery without Court action; (b) Allatin has failed to make disclosure of any of the documents requested in Cendant's First Request for the Production of Documents or to otherwise justify the non-disclosure of such documents; (c) Allatin has failed to comply with this Court's October 27, 2005 Order compelling discovery and has shown contumacious disregard for this Court's Orders and the proceedings before this Court; (e) Allatin must pay Cendant reasonable expenses incurred in the making of its motions to compel discovery, including attorney's fees; (f) Allatin's Answer and Affirmative Defenses are stricken and default judgment is entered against Allatin; and (e) the trial scheduled for January 5, 2006 at 1:30 is no longer necessary by virtue of the default judgment entered against Allatin.

11. On January 11, 2006, Allatin filed a letter with this Court entitled "Motion for Hearing."

12. On February 9, 2006, this Court entered an Order denying Allatin's Motion for Hearing.

13. On March 7, 2006, Cendant filed its Motion for Entry of Final Judgment After Entry of Default. The Motion is supported by Gordon A. Dieterle's Verified Statement of Factual and Procedural Background in support of its Motion for Final Judgment After Entry of Default, which is attached thereto as "Exhibit A." The total amount of attorney's fees incurred by Cendant in relation to obtaining discovery from Allatin is supported by Gordon A. Dieterle's Verified Statement of Attorney's

Fees, which is attached to Cendant's Motion as "Exhibit B" and was filed in connection with this Court's Award of Monetary Sanctions to Adversarial Plaintiff, PHH Home Equity n/k/a Cendant Mobility Services Corporation.

14. As there are no issues in dispute in this matter and a default has been entered against Allatin, Cendant is entitled to have a final judgment entered against Allatin.

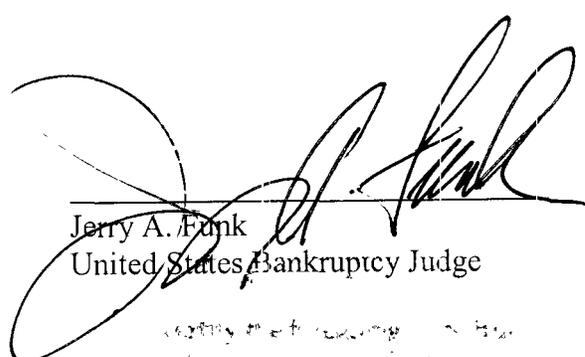
15. Based on the foregoing, it is

ORDERED and ADJUDGED that Plaintiff, PHH Home Equity n/k/a Cendant Mobility Services Corporation's Motion for Entry of Final Judgment After Entry of Default is hereby GRANTED. It is further

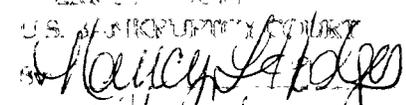
ORDERED and ADJUDGED that Final Judgment is entered against Debtor, Robert L. Allatin and his debt owed to Plaintiff, PHH Home Equity n/k/a Cendant Mobility Services Corporation is declared non-dischargeable and/or is not subject to discharge. It is further

ORDERED and ADJUDGED that Plaintiff, PHH Home Equity n/k/a Cendant Mobility Services Corporation is awarded the amount of \$ 3,000.00 for attorney's fees and costs incurred in relation to obtaining discovery from Allatin.

DONE and ORDERED in the United States Bankruptcy Court, Middle District of Florida, Jacksonville, Florida, this 20 day of March, 2006.


Jerry A. Frank
United States Bankruptcy Judge

CLERK OF COURT
U.S. BANKRUPTCY COURT


Nancy S. Hedges

March 30, 2006

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