

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

In re:

MERENDON MINING (Nevada), INC.
a/k/a Milowe Brost,

Case No. 09-11958-AJC

Chapter 7

Debtor.

_____ /

MARCIA DUNN, Chapter 7 Trustee

Adv. Proc. No. 10-03623-AJC

Plaintiff,

v.

MARTIN WERNER, et al.,

Defendants.

_____ /

PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT
AGAINST DEFENDANT LEFT HAND DITCH COMPANY

Plaintiff, Maria Dunn as Trustee, moves for entry of default for failure to plead, pursuant to Fed. R. Bankr. P. 7055 and Local Rule 7055-1, for the following defendant:

LEFT HAND DITCH COMPANY

Service of the Second Amended Complaint (D.E. 125), Alias Summons (D.E. 165) and Order Setting Filing and Disclosure Requirements for Pretrial and Trial (D.E. #166) was served on March 2, 2015 on the respective defendant (D.E. #170), and was duly effectuated in compliance with the Federal Rules of Bankruptcy Procedure. The defendant's counsel Clark G. Edwards responded to the Trustee's counsel via e-mail indicating that they will not be filing a response, attached hereto as **Exhibit A**. No extension of time was sought or obtained by the defendant, and the defendant failed to file a responsive pleading or motion beyond the time specified in the Federal Rules of Bankruptcy Procedure. The defendant is not a member of the military service.

Wherefore, plaintiff seeks the entry of a default against defendant Left Hand Ditch Company as authorized by Fed. R. Bankr. P. 7055.

I certify under penalty of perjury that the foregoing is true.

Dated: April 24, 2015

Respectfully submitted,

GRAYROBINSON, P.A.
Attorneys for Plaintiff Marcia Dunn, Chapter 7 Trustee
401 E. Las Olas Boulevard, Suite 1000
Fort Lauderdale, FL 33301
Phone 954-761-8111/Fax 954-761-8112

By: /s/ Ivan J. Reich
Ivan J. Reich, Esq.
Florida Bar No. 778011
ivan.reich@gray-robinson.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served (i) to all parties registered to receive service via the Court's CM/ECF system and (ii) via U.S. Mail to all parties on the attached service list this 24th day of April, 2015. In accordance with the Court's Order of December 30, 2009 [D.E. # 74 in the Main Case], this Motion shall be posted to <http://www.gray-robinson.com/p/82/Merendon-Mining-Nevada-Inc>, set up for the purposes of providing information on this case.

/s/ Ivan J. Reich
Ivan J. Reich, Esq.

SERVICE LIST

Defendant

Left Hand Ditch Company 209 Murray Street, Unit D Niwot, CO 80544	Left Hand Ditch Company c/o Registered Agent, Daniel Richard Grant P.O. Box 1826 Longmont, CO 80502-1826
Clark G. Edwards, Esq. Hutchinson Black and Cook, LLC 921 Walnut Street, Suite 200 Boulder, CO 80302	

Interested Party

E. Alan Hampson, Esq.
1420 Vance St. #200
Lakewood, CO 80214

\3510164 - # 3534114 v1

From: Ivan J. Reich
Sent: Friday, March 27, 2015 1:34 PM
To: Clark G. Edwards
Subject: Re: Merendon Mining; Case No. 09-11958-BKC-AJC; Second Amended Adversary Complaint

However if you feel you have a claim to them you still have to file something in this case because the transfer was made free and clear of liens claims and interest the transferee has whatever rights the estate had.

Sent from my iPhone

Ivan J. Reich | Of Counsel
GRAY | ROBINSON

401 East Las Olas Blvd., Suite 1000 | Fort Lauderdale, Florida 33301
T: 954-761-8111 | **F:** 954-761-8112 | **D:** 954-761-7508
[E-mail](#) | [Website](#) | [Bio](#) | [vCard](#)

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On Mar 27, 2015, at 1:16 PM, "Clark G. Edwards" <Edwards@hcboulder.com> wrote:

Ivan:

You are correct. Thank you for your response.

Since the Left Hand Ditch Company shares have already been transferred by the Trustee, then the ditch company has no claim to any assets still in the bankruptcy estate. Therefore, the ditch company will not be filling any response to the bankruptcy notice.

Regards,

CLARK G. EDWARDS, Attorney at Law
HUTCHINSON BLACK AND COOK, LLC
921 Walnut Street | Suite 200 | Boulder, CO 80302
tel 303.442.6514 | fax 303.441.7458
edwards@hcboulder.com | <http://www.hcboulder.com>

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From: Ivan J. Reich [<mailto:Ivan.Reich@gray-robinson.com>]
Sent: Friday, March 27, 2015 11:10 AM
To: Clark G. Edwards
Cc: Michael D. Lessne, CPA; Marcia Dunn; Jessica Serrano-Cartagena
Subject: FW: Merendon Mining; Case No. 09-11958-BKC-AJC; Second Amended Adversary Complaint

Yes clark such shares have been transferred, so you are not answering is that correct.

Ivan J. Reich | Of Counsel
GRAY | ROBINSON

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Please be advised that this law firm may be acting as a debt collector and is attempting to collect a debt and any information provided will be used for that purpose.

From: Clark G. Edwards [<mailto:Edwards@hbcboulder.com>]
Sent: Wednesday, March 25, 2015 5:28 PM
To: Ivan J. Reich
Subject: FW: Merendon Mining; Case No. 09-11958-BKC-AJC; Second Amended Adversary Complaint

Ivan:

Please kindly confirm that the trustee has transferred any interest in the 16 shares identified in the attachments.

Regards,

CLARK G. EDWARDS, Attorney at Law
HUTCHINSON BLACK AND COOK, LLC
921 Walnut Street | Suite 200 | Boulder, CO 80302

tel 303.442.6514 | fax 303.441.7458

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From: Clark G. Edwards

Sent: Tuesday, March 17, 2015 11:46 AM

To: 'ivan.reich@gray-robinson.com'

Subject: Merendon Mining; Case No. 09-11958-BKC-AJC; Second Amended Adversary Complaint

Ivan:

I represent Left hand Ditch Company. Paragraph 45 of the referenced complaint indicates that the ditch company may assert a claim against the Bueno and Black Rose Mining Properties. The only interest that the ditch company ever had in those Properties was on account of 16 shares of the ditch company stock (Certificate No. 821) that may have been held by Merendon Mining in conjunction with those Properties.

I've attached the trustee's Statement and Bill of Sale regarding the conveyance of the 16 shares by the trustee to "Gold Hill Minerals, Inc."

Please kindly confirm that the trustee has no claim against those 16 shares. If so, then the ditch company has no need to participate in the bankruptcy proceedings.

Regards,

CLARK G. EDWARDS, Attorney at Law

HUTCHINSON BLACK AND COOK, LLC

921 Walnut Street | Suite 200 | Boulder, CO 80302

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