

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ENTERED ON DOCKET
MAR 10 2011

IN RE: : CASE NO. 11-52483-JB
: :
RK HOSPITALITY, LLC, : :
: : CHAPTER 11
Debtor. : :

ORDER OF DISMISSAL

This case came before the Court for a hearing on March 2, 2011 on a motion to dismiss filed by the United States Trustee (Doc. No. 4). The motion is based on the fact that debtor is a corporate debtor and is not represented by counsel. Martin P. Ochs appeared for the United States Trustee, and William Gear appeared for Fidelity Bank, a secured creditor. No one appeared on behalf of the debtor. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A). After hearing the presentation by the United States Trustee and consideration of the applicable law, the Court concludes that the motion to dismiss filed by the United States Trustee should be granted.

The motion to dismiss and notice of the March 2, 2011 hearing on the motion were filed and served on the debtor on January 31, 2011, providing debtor with a month's notice. Two business days prior to the hearing, Ramesh B. Patel, as managing member of the debtor, filed two motions: a motion requesting the Court deny the United States Trustee's motion to dismiss and a motion requesting a reset of the hearing on the motion to dismiss. In both motions, Mr. Patel requested additional time for the board of

directors to raise funds and obtain counsel. Mr. Patel did not appear at the March 2, 2011 hearing, and no one appeared on behalf of the debtor.

The debtor is a limited liability company and as such must be represented by counsel to appear in bankruptcy court. The law is well-settled that artificial entities such as corporations and partnerships may appear in the federal courts only through licensed counsel; they cannot appear *pro se* through their shareholders or officers. *Rowland v. California Men's Colony*, 506 U.S. 194, 201, 113 S.Ct. 716, 721 (1993); *Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985); *also see Schreibman v. Walter E. Heller & Co. of Puerto Rico (In re Las Colinas Dev. Corp.)*, 585 F.2d 7 (1st Cir. 1978). This debtor cannot proceed in this Chapter 11 case without the representation of licensed counsel. Accordingly, the United States Trustee's motion to dismiss is GRANTED, and the case is dismissed without prejudice.

IT IS SO ORDERED, this 9th day of March, 2011.



JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

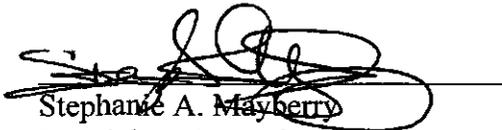
A copy of the foregoing Order was mailed to the following:

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Mailed: 03/09/2011