

EBF Holdings, LLC v Kloud Rooftop Inc.

2026 NY Slip Op 30775(U)

March 4, 2026

Supreme Court, New York County

Docket Number: Index No. 652886/2025

Judge: Emily Morales-Minerva

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EMILY MORALES-MINERVA PART 42M

Justice

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EBF HOLDINGS, LLC D/B/A EVEREST BUSINESS FUNDING,

Plaintiff,

INDEX NO. 652886/2025

MOTION DATE 12/04/2025

MOTION SEQ. NO. 001

- v -

KLOUD ROOFTOP INC., SALMAN A KHAN

Defendant.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 17, 18, 19, 20, 21, 22, 23

were read on this motion to/for JUDGMENT - DEFAULT

APPEARANCES :

MENDELBEERG P.C., 86 Chambers St. Suite 205, New York, New York 10007 (Gabriel Mendelberg), for plaintiff.

EMILY MORALES-MINERVA, J.S.C.

In this breach of contract, breach of guaranty and unjust enrichment action, plaintiff EBF HOLDINGS, LLC D/B/A EVEREST BUSINESS FUNDING moves, pursuant to CPLR § 3215, for an order granting it leave to enter a default judgment against defendants KLOUD ROOFTOP INC. and SALMAN A KHAN in the sum of \$113,920.00 plus costs, fees, disbursements, and interest from April 2, 2025.

Defendants do not appear or submit opposition to the motion (sequence number 01).

When a defendant fails "to appear, plead or proceed to trial of an action reached and called for trial, or when the court orders a dismissal for any other neglect to proceed, the plaintiff may seek a default judgment against [the defendant]" (CPLR § 3215 [a]). To establish entitlement to a default judgment, plaintiff must file (1) proof it served defendant with the summons and complaint, and (2) "proof of the facts constituting the claim, the default, and the amount due . . . by affidavit made by the party" (see CPLR § 3215 [f]; see also Woodson v Mendon Leasing Corp., 100 NY2d 62, 70 [2003] [providing that "an applicant for a default judgment [must] file 'proof by affidavit made by the party of the facts constituting the claim'"]; 231st Riverdale LLC v 7 Star Home Furniture Inc., 198 AD3d 524, 525 [1st Dept 2021]; Feffer v Malpeso, 210 AD2d 60 [1st Dept 1994]).

Here, plaintiff demonstrates its entitlement to entry of a default judgment against defendants by submitting, among other things, the affirmation of service (NYSCEF Doc. No. 4); the affirmation of additional mailing (NYSCEF Doc. No. 6); defendant's contractual agreement with plaintiff (NYSCEF Doc. No. 3) and the affidavit of Michael John Reppas II, Chief Legal Officer of Whetstone Holdings, LLC the parent of EBF Holdings LLC d/b/a Everest Business Funding ("EBF") (NYSCEF Doc. No. 14);

(see CPLR § 3215 [f]; see also Licurgo-Villar v Samouha, 227 AD3d 619, 620 [1st Dept 2024]; Guzetti v City of New York, 32 AD3d 234 [1st Dept 2006]).

Accordingly, it is hereby

ORDERED that Plaintiff EBF HOLDINGS, LLC D/B/A EVEREST BUSINESS FUNDING motion for default judgement pursuant to CPLR § 3215, is GRANTED on the action for breach of contract against Defendant KLOUD ROOFTOP INC and GRANTED on the action for breach of guaranty on SALMAN A KHAN; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of Plaintiff and against Defendants KLOUD ROOFTOP INC. and SALMAN A KHAN, jointly and severally in the amount of \$113,920.00 plus costs, fees, disbursements, and interest from April 2, 2025;

ORDERED that, within fifteen days from the date of this decision and order, plaintiff shall serve a copy of this order, with notice of entry, upon defendants, as well as on the clerk of court, who shall enter judgement accordingly; and it is further

ORDERED that the Clerk of Court shall mark the file accordingly.

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

3/4/2026

DATE

Emily Morales-Minerva
EMILY MORALES-MINERVA, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED DENIED

GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT REFERENCE