

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BURTON W. WIAND, as Receiver
for OASIS INTERNATIONAL
GROUP, LTD.; OASIS
MANAGEMENT, LLC; and
SATELLITE HOLDINGS
COMPANY,

Plaintiff,

Case No. 8:22-cv-01512-KKM-TGW

v.

CLARK ASSET MANAGEMENT
CO. and DOUGLAS B. CLARK,

Defendants.

v.

BANK OF AMERICA CORP.,

Garnishee.

_____ /

**RECEIVER'S *EX PARTE* MOTION FOR ISSUANCE OF WRIT OF
GARNISHMENT REGARDING DEFENDANT CLARK ASSET
MANAGEMENT CO. AND GARNISHEE BANK OF AMERICA CORP.**

Plaintiff, BURTON W. WIAND, as Receiver for OASIS
INTERNATIONAL GROUP, LTD., OASIS MANAGEMENT, LLC, and

SATELLITE HOLDINGS COMPANY (“**Receiver**”), pursuant to Federal Rule of Civil Procedure 64, hereby requests, *ex parte*, that this Honorable Court issue a Writ of Garnishment in the form attached hereto as **Exhibit 1**, based upon the Default Judgment entered against Defendant/Judgment Debtor, CLARK ASSET MANAGEMENT CO. (“**Defendant**”), on April 18, 2023 (Doc. 20), and states the following in support:

1. On April 17, 2023, the Court entered its order (Doc. 19) granting in part the Report and Recommendations (Doc. 18) and ordering entry of judgment against Defendant in the amount of \$146,092.90 plus pre-judgment interest from November 1, 2022.

2. The next day, the clerk entered default judgment against Defendant (Doc. 20) (“**Judgment**”).

3. The sum of \$146,092.90 plus pre-judgment interest from November 1, 2022, plus post judgment interest since April 18, 2023, remains due and unpaid on the Judgment.

4. Based on Receivership documents, the Receiver believes that Garnishee provides banking services to Defendant, and that Garnishee is indebted to Defendant, as evidenced by the attached **Exhibit 2**.

5. The Receiver respectfully requests that a Writ of Garnishment be issued, *ex parte*, against Defendant’s tangible and intangible property interests

held by Garnishee, BANK OF AMERICA CORP., and any indebtedness that Garnishee owes to Defendant.

MEMORANDUM OF LAW

Motions for writ of garnishment to satisfy a final judgment must comply with the procedure of the state where the court is located, but a federal statute governs to the extent it applies. *See* Fed. R. Civ. P. 64 (“At the commencement of and throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing a person or property to secure satisfaction of the potential judgment. But a federal statute governs to the extent it applies.”). Under Florida law, every person or entity who has obtained a judgment in any court against any person or entity has a right to a writ of garnishment. Fla. Stats. § 77.01. Florida Statutes § 77.01 provides in relevant part as follows:

Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due to defendant by a third person or any debt not evidenced by a negotiable instrument that will become due absolutely through the passage of time only to the defendant by a third person, and any tangible or intangible personal property of defendant in the possession or control of a third person.

Id.

Post-judgment garnishment provides a procedure for enforcement of a judgment after the validity of the debt has been adjudicated. *First Union Nat. Bank of Florida v. Knyal*, 874 So. 2d 716, 717 (Fla. 4th DCA 2004). The proper procedure to garnish funds of a judgment debtor requires that a movant first procure leave of court to issue a writ of garnishment. *Alejandro v. The Republic of Cuba*, 64 F. Supp. 2d 1245, 1247 (S.D. Fla. 1999). The Florida Supreme Court has held that “neither due process under the Fourteenth Amendment of the United States Constitution nor any provision of the Florida Constitution requires prior notice to a judgment debtor and a hearing before a writ of garnishment may issue.” *United Presidential Life Ins. Co. v. King*, 361 So. 2d 710, 713 (Fla. 1978). Thus, any post-judgment motion for writ of garnishment may be filed *ex parte*. *Communications Center, Inc. v. Komatsu*, 2008 WL 2717668, at *1 (M.D. Fla. 2008) (“Federal law also supports post-judgment issuance of writs of garnishment without prior notice to the judgment debtor.”).

Here, the Receiver requests that the Writ of Garnishment be issued *ex parte*, as the Receiver’s collection efforts could be hindered if Defendant were to receive notice. The Receiver will provide notice to the Defendant at the time and in the manner required by Florida law.

CONCLUSION

For these reasons, the Receiver respectfully requests that the Court grant this *Ex Parte* Motion for Writ of Garnishment and order, via the proposed order attached as **Exhibit 3**, the issuance of a Writ of Garnishment in the form attached as Exhibit 1, and for any other such relief this Court may deem just and proper.

Dated: April 25, 2023.

Respectfully submitted,

/s/ Lawrence J. Dougherty

Lawrence J. Dougherty, FBN 0068637

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GUERRA KING P.A.

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*Counsel for Burton W. Wiand, as Receiver
for Oasis International Group, Ltd.; Oasis
Management, LLC; and Satellite
Holdings Company*

EXHIBIT 1

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BURTON W. WIAND, as Receiver
for OASIS INTERNATIONAL
GROUP, LTD.; OASIS
MANAGEMENT, LLC; and
SATELLITE HOLDINGS
COMPANY,

Plaintiff,

Case No. 8:22-cv-01512-KKM-TGW

v.

WRIT OF GARNISHMENT

CLARK ASSET MANAGEMENT
CO. and DOUGLAS B. CLARK,

Defendants.

v.

BANK OF AMERICA CORP.,

Garnishee.

_____ /

POST-JUDGMENT WRIT OF GARNISHMENT

THE UNITED STATES OF AMERICA

To: UNITED STATES MARSHAL'S SERVICE

YOU ARE COMMANDED ON RECEIPT OF THIS WRIT to
summon the garnishee BANK OF AMERICA ("**Garnishee**"), whose address

is Bank of America Corporate Center, 100 North Tryon Street, Charlotte, NC 28255, who is required to serve an answer to this Writ of Garnishment on the attorney for the plaintiff Receiver, Lawrence J. Dougherty, Esq., whose address is 1408 N. West Shore Blvd., Suite 1010, Tampa FL 33607, within twenty (20) days after service on the Garnishee, exclusive of the day of service, and to file the original with the Clerk of Court either before service on the attorney or immediately thereafter, stating whether the Garnishee is indebted to Defendant, CLARK ASSET MANAGEMENT CO. at the time of the answer or was indebted at the time of service of the writ, or at any time in between such times, and whether this garnishee knows of any other person indebted to Defendant, CLARK ASSET MANAGEMENT CO. or who may be in possession or control of any of the property of Defendant, CLARK ASSET MANAGEMENT CO. The amount set in the Judgment entered by United States District Judge Kathryn Kimball Mizelle on April 17, 2023 in Case No. 8:22-cv-01512-KKM-TGW is \$146,092.90 plus pre-judgment interest from November 1, 2022.

DATED on _____.

ELIZABETH WARREN, CLERK
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

By: _____

Deputy Clerk

Counsel of Record:

Lawrence J. Dougherty, FBN 0068637

ldougherty@guerraking.com

GUERRA KING P.A.

The Towers at Westshore

1408 N. West Shore Blvd., Suite 1010

Tampa, FL 33607

Tel. (813) 347-5100

Fax (813) 347-5198

*Counsel for Burton W. Wiand, as Receiver for Oasis International Group, Ltd.;
Oasis Management, LLC; and Satellite Holdings Company*

EXHIBIT 2

6780060764-WIRO

PageID 203

9:06:51 AM

Wires Outgoing

[REDACTED]

-1212016448 SENT ORIGINATOR (7000000000563831) BENEFICIARY BANK OF AMERICA, N.A., NY 05/01/17 12:18PM FUNDADMINISTRATION INC. Clark Asset Management ABA 026009593 SET UP 05/01/17 4175 VETERANS MEM. HWY. 12:18PM 204 New York NY \$17,000.00 PHONE 006780060764 B&P CHECKING ACCT# 005489767639 SET UP BY ANDREW MACDONALD APPROVED BY ANDREW MACDONALD MICHAEL NOLAN \$0.00 FEE Re Oasis Intl Group Ltd 0351190351140165570121 FED # G0171212756701 GLOBAL ID

[REDACTED] CITIBANK N.A. to Cover check for Divergent Investments G0171212756701 GLOBAL ID

[REDACTED]

Wires Outgoing

-1570441500 SENT ORIGINATOR (7000000000500001) BENEFICIARY WELLS FARGO
 B [REDACTED]
 1 [REDACTED]
 2 [REDACTED]
 \$ [REDACTED]
 B [REDACTED]
 A [REDACTED]
 G [REDACTED]

-157101011 SENT ORIGINATOR (7000000000500001) BENEFICIARY KEYBANK
 N [REDACTED]
 L [REDACTED]
 O [REDACTED]
 \$ [REDACTED]
 B [REDACTED]
 A [REDACTED]
 G [REDACTED] Intl

-1580480349 SENT ORIGINATOR (7000000000563831) BENEFICIARY HURON
 VA [REDACTED]
 Pr [REDACTED]
 01 [REDACTED]
 \$4 [REDACTED]
 B8 [REDACTED]
 AP [REDACTED]
 G [REDACTED] Intl

-1580480349 SENT ORIGINATOR (7000000000563831) BENEFICIARY BANK OF
 AMERICA, N.A., NY 06/07/17 03:06PM FUNDADMINISTRATION INC. Clark Asset Management
 Co ABA 026009593 SET UP 06/07/17 4175 VETERANS MEM. HWY. 03:06PM
 204 New York NY PHONE 006780060764
 \$23,000.00
 B&P CHECKING ACCT# 005489767639 SET UP BY ANDREW MACDONALD
 APPROVED BY ANDREW MACDONALD MICHAEL NOLAN \$0.00 FEE Re Oasis Intl
 Group Ltd 0694000693810377264150 FED # G0171583714101 GLOBAL ID

EXHIBIT 3

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

BURTON W. WIAND, as Receiver
for OASIS INTERNATIONAL
GROUP, LTD.; OASIS
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CLARK ASSET MANAGEMENT
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BANK OF AMERICA, CORP.,
Garnishee.

_____ /

ORDER

THIS CAUSE came on for consideration upon the Receiver's *Ex Parte*
Motion for Issuance of Writ of Garnishment Regarding Defendant CLARK

ASSET MANAGEMENT CO. and Garnishee BANK OF AMERICA, CORP.

(Doc. ____). It is, upon consideration,

ORDERED:

That the Receiver's *Ex Parte* Motion for Issuance of Writ of Garnishment Regarding Defendant CLARK ASSET MANAGEMENT CO. and Garnishee BANK OF AMERICA, CORP. (Doc. __) be, and the same is hereby, **GRANTED**. The Clerk of Court is directed to issue the attached Writ of Garnishment directed to BANK OF AMERICA, CORP. (Doc.____).

DONE AND ORDERED at Tampa, Florida on this __ day of _____,
2023.

THOMAS G. WILSON
U.S. MAGISTRATE JUDGE