

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,

v.

Case No: 8:20-cv-00862-VMC-TGW

CHRIS AND SHELLEY ARDUINI, et al.,

Defendants.

JOINT MOTION FOR FINAL JUDGMENT IN GARNISHMENT

Plaintiff, BURTON W. WIAND, as Receiver for OASIS INTERNATIONAL GROUP, LTD.; OASIS MANAGEMENT, LLC; AND SATELLITE HOLDINGS COMPANY (“*Plaintiff*”), and Defendant/Judgment Debtor, DIVERGENT INVESTMENTS, LLC (“*Defendant*”), jointly move this Honorable Court for entry of a Final Judgment in Garnishment directing the Garnishee, TRUIST BANK, formerly known as Branch Banking and Trust Company, as successor by merger to SunTrust Bank (“*Garnishee*”), to release \$28,662.27 of garnished funds to Plaintiff and \$100.00 of garnished funds to Garnishee as payment of the statutory garnishment fee, and states as follows:

ENGLANDER FISCHER

A T T O R N E Y S

721 First Avenue North • St. Petersburg, Florida 33701
Phone (727) 898-7210 • Fax (727) 898-7218
eflegal.com

1. On November 30, 2020, Plaintiff obtained a final judgment against Defendant. The Amended Final Judgment entitled the Plaintiff to recover \$27,728.45 plus post judgment interest from the Defendant (“**Judgment**”). (Doc. 770).

2. The full amount of the Judgment remains due and owing.

3. On June 5, 2021, Plaintiff filed an *Ex Parte* Motion for Writ of Garnishment related to Garnishee. (Doc. 819).

4. On June 17, 2021, a Writ of Garnishment was issued, directed to the Garnishee and served on Garnishee on July 9, 2021. (Doc. 851, 987).

5. Pursuant to the Notice of Compliance with Fla. Stat. 77.041(2) filed on July 13, 2021, Defendant was timely served with the Receiver’s *Ex Parte* Motion for Issuance of Writ of Garnishment, Writ of Garnishment issued by the Court on July 13, 2021, and requisite “Notice to Defendant.” (Doc. 970).

6. On July 20, 2021, Garnishee filed its Answer of Garnishee stating that Garnishee was holding funds in the amount of \$44,071.70 for the Defendant. (Doc. 980).

7. Defendant was timely served with the Answer of Garnishee pursuant to the Notice filed on July 21, 2021. (Doc. 986).

8. Defendant has entered into a post-judgment Settlement Agreement with the Receiver to stay further garnishment attempts and to satisfy the Judgment.

9. Pursuant to the Settlement Agreement, Defendant has agreed to waive: (i) any objections to the writ, (ii) any claim of exemption, and (iii) any motion to dissolve the writ of garnishment.

9. Plaintiff is entitled to a Final Judgment in Garnishment against Garnishee for the amount the Garnishee is indebted to Defendant and Garnishee is entitled to its \$100.00 statutory fee payable to Garnishee's attorney, Gray Robinson, P.A., Garnishee's attorney.

10. Plaintiff and Defendant jointly request that the Court enter the Proposed Final Judgment of Garnishment attached hereto as **Exhibit "1."**

Memorandum of Law

Garnishment proceedings are statutory in nature and must be strictly complied with. *Zivitz v. Zivitz*, 16 So. 3d 841, 847 (Fla. 2d DCA 2009). In this case, Defendant was timely served by first class mail with a copy of the Writ of Garnishment, *Ex Parte* Motion for Writ of Garnishment, and the "Notice to Defendant" because it was sent to Defendant's last known address within three (3) business days after the writ was served on Garnishee. See *Fla. Stat.* § 77.041(2). Debtor was also timely served with a copy of the Garnishee's Answer and notice regarding a motion to dissolve the Writ of Garnishment pursuant to *Fla. Stat.* § 77.055 because it was mailed and emailed to Defendant within five (5) days after the Garnishee filed its Answer.

Moreover, through the post-judgment Settlement Agreement and this Joint Motion for Final Judgment in Garnishment, the Defendant waived his right to object to the Writ, file a claim of exemption form, or move to dissolve the Writ. Accordingly, entry of the proposed final judgment attached hereto as **Exhibit “1”** is appropriate in light of the Settlement Agreement and Defendant’s waivers.

WHEREFORE, Plaintiff prays this Honorable Court will enter a Final Judgment of Garnishment directing the Garnishee to release \$28,662.27 of garnished funds to Plaintiff and \$100.00 of garnished funds to Garnishee’s attorney as payment of the statutory garnishment and for any further relief this Honorable Court finds fair and just under the circumstances.

Local Rule 3.01(g) Certification

Pursuant to Local Rule 3.01(g), M.D. Fla., undersigned counsel certifies that she conferred with counsel for Garnishee, who does not oppose the relief sought herein.

DATED this 2nd day of August, 2021.

/s/James H. West
James H. West, Esq.
West, Edwards & Associates, LLC
409 Washington Ave., Ste. 1010
Towson, Maryland 21204
Attorney for Divergent Investments, LLC

ENGLANDER FISCHER
/s/ Beatriz McConnell
JOHN W. WAECHTER
Florida Bar No. 47151
Primary: jwaechter@eflegal.com
Secondary: dturner@eflegal.com
BEATRIZ MCCONNELL
Florida Bar No. 42119
Primary: bmccconnell@eflegal.com

Secondary: tdillon@eflegal.com

ALICIA GANGI

Florida Bar No. 1002753

Primary: agangi@eflegal.com

Secondary: tdillon@eflegal.com

ENGLANDER and FISCHER LLP

721 First Avenue North

St. Petersburg, Florida 33701

Tel: (727) 898-7210

Fax: (727) 898-7218

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing has been electronically filed with the Clerk of Court by using the CM/ECF system and sent by U.S. Mail and electronic mail to Divergent Investments, LLC, 3642 Lyndale Ave., Baltimore, MD 21213 and James West, Esq. at jay.west@wealaw.com.

/s/ *Beatriz McConnell*
BEATRIZ MCCONNELL

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,

v.

Case No: 8:20-cv-00862-VMC-TGW

CHRIS AND SHELLEY ARDUINI, et al.,

Defendants.

FINAL JUDGMENT OF GARNISHMENT

THIS CAUSE came before the Court without a hearing on Plaintiff's, BURTON W. WIAND, as Receiver for OASIS INTERNATIONAL GROUP, LTD.; OASIS MANAGEMENT, LLC; AND SATELLITE HOLDINGS COMPANY ("**Plaintiff**") and Defendant/Judgment Debtor, DIVERGENT INVESTMENTS, LLC's ("**Defendant**"), Joint Motion for Final Judgment in Garnishment ("**Motion**") and this Court having reviewed the Motion, the docket, and being otherwise duly advised in the premises, hereby finds as follows:

1. On November 30, 2020, Plaintiff obtained a final judgment against Defendant. The Amended Final Judgment entitled the Plaintiff to recover \$27,728.45 plus post-judgment interest from the Defendant ("**Judgment**"). (Doc.

770).

2. On June 5, 2021, Plaintiff filed an *Ex Parte* Motion for Writ of Garnishment related to Garnishee, TRUIST BANK, formerly known as Branch Banking and Trust Company, as successor by merger to SunTrust Bank (“*Garnishee*”) (Doc. 819), and on June 17, 2021, the Clerk issued a Writ of Garnishment directed to Garnishee (“*Writ*”) (Doc. 851).

3. On July 20, 2021, Garnishee filed its Answer of Garnishee stating that Garnishee was holding funds in the amount of \$44,071.70 for the Defendant. (Doc. 980).

4. On July 21, 2021, Plaintiff filed and served Garnishee’s Answer on Defendant. (Doc. 986).

5. The Plaintiff served proper notice on Defendant regarding the Writ. (Doc. 970).

6. Pursuant to a post-judgment Settlement Agreement, Plaintiff and Defendant filed the Joint Motion for Final Judgment in Garnishment (Doc. __), wherein Defendant waived objections to the Writ, any claim of exemption, and any motion to dissolve the Writ.

It is therefore **ORDERED AND ADJUDGED:**

7. Final Judgment in Garnishment is hereby entered in favor of Plaintiff BURTON W. WIAND, as Receiver for OASIS INTERNATIONAL GROUP, LTD.;

OASIS MANAGEMENT, LLC; AND SATELLITE HOLDINGS COMPANY, whose address is c/o Beatriz McConnell, Esq., Englander Fischer, 721 First Avenue North, St. Petersburg, FL 33701, and against Garnishee, TRUIST BANK, formerly known as Branch Banking and Trust Company, as successor by merger to SunTrust Bank, the address of which is c/o David S. Hendrix, Esq., Gray Robinson, P.A., 401 E. Jackson St., Ste. 2700, P.O. Box 3324, Tampa, FL 33601.

8. Pursuant to the Final Judgment and Writ, Plaintiff does have, receive and recover from the Garnishee, TRUIST BANK, formerly known as Branch Banking and Trust Company, as successor by merger to SunTrust Bank, the sum of \$28,662.27 for all of which amount let execution issue forthwith. An additional \$100.00 shall be released to Garnishee, payable to Gray Robinson, P.A., Garnishee's attorney, as payment of the statutory garnishment fee.

9. The Court retains jurisdiction to enter orders as may be necessary to enforce this Final Judgment.

DONE AND ORDERED in Tampa, Florida, this _____ day of _____, 2021.

VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies to:
Beatriz McConnell, Esq.
David S. Hendrix, Esq.
Divergent Investments, LLC, 3642 Lyndale Ave., Baltimore, MD 21213 and James

West, Esq. at jay.west@wealaw.com