

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.

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*”), moves this Honorable Court for entry of a Final Judgment in Garnishment directing the Garnishee, JP MORGAN CHASE BANK, N.A. (“*Garnishee*”), to release \$1,754.66 of garnished funds to Plaintiff and \$100.00 of garnished funds to Garnishee as payment of the statutory garnishment fee, and states as follows:

1. On December 1, 2020, Plaintiff obtained a final judgment against Defendant (Doc. 671). The Amended Final Judgment entitled the Plaintiff to recover

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\$78,392.65 plus post judgment interest (“**Judgment**”). (Doc. 774) from the Defendant, Frank Nagel (“**Defendant**”).

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. 834).

4. On June 17, 2021, a Writ of Garnishment was issued directed to the Garnishee and served on Garnishee on June 28, 2021. (Doc. 881, 1000).

5. Pursuant to the Notice of Compliance with *Fla. Stat.* 77.041(2) filed on June 30, 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 June 17, 2021, and requisite “Notice to Defendant.” (Doc. 906).

6. On July 6, 2021, Garnishee filed its Answer of Garnishee stating that Garnishee was holding funds in the amount of \$1,854.66 for the Defendant. (Doc. 935).

7. Defendant was timely served with the Answer of Garnishee pursuant to the Notice filed on July 7, 2021. (Doc. 941).

8. Defendant has not objected to the Writ of Garnishment, filed a claim of exemption, or moved 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, Homer Bonner Jacobs Ortiz, P.A.

10. Accordingly, Plaintiff requests 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, 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 Defendant's waivers.

WHEREFORE, Plaintiff prays this Honorable Court will enter a Final

Judgment of Garnishment directing the Garnishee to release \$1,754.66 of garnished funds to Plaintiff and \$100.00 of garnished funds to Garnishee's attorney, Homer Bonner Jacobs Ortiz, as payment of the statutory garnishment fee 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 3rd day of August, 2021.

ENGLANDER FISCHER

/s/ Beatriz McConnell

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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 to Frank Nagel, 10 Kyle Ct., Carmel, NY 10512.

/s/ *Beatriz McConnell*
BEATRIZ MCCONNELL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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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***"), Motion for Final Judgment in Garnishment ("***Motion***") and this Court having reviewed the reviewed the Motion, the docket, and being otherwise duly advised in the premises, hereby finds as follows:

1. On December 1, 2020, Plaintiff obtained a final judgment against Defendant (Doc. 671). The Amended Final Judgment entitled the Plaintiff to recover \$78,392.65 plus post judgment interest ("***Judgment***") (Doc. 774) from the Defendant, Frank Nagel ("***Defendant***").

2. On June 5, 2021, Plaintiff filed an *Ex Parte* Motion for Writ of Garnishment related to Garnishee, JP MORGAN CHASE BANK, N.A. (“*Garnishee*”) (Doc. 834) and on June 17, 2021, the Clerk issued a Writ of Garnishment directed to Garnishee (“*Writ*”) (Doc. 881).

3. On July 6, 2021, Garnishee filed its Answer of Garnishee stating that Garnishee was holding funds in the amount of \$1,854.66 for the Defendant. (Doc. 935).

4. On July 7, 2021, Plaintiff filed and served Garnishee’s Answer on Defendant. (Doc. 941).

5. The Plaintiff served proper notice on Defendant regarding the Writ. (Doc. 906).

6. Defendant has not objected to the Writ of Garnishment, filed a claim of exemption, or moved to dissolve the Writ of Garnishment.

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, JP MORGAN CHASE BANK, N.A., the address of which is c/o Andrew R. Herron, Esq., Homer Bonner

Jacobs Ortiz, 1200 Four Seasons Tower, 1441 Brickell Ave., Miami, FL 33131.

Pursuant to the Final Judgment and Writ, Plaintiff does have, receive and recover from the Garnishee, JP MORGAN CHASE BANK, N.A., the sum of \$1,754.66 for all of which amount let execution issue forthwith. The remaining \$100.00 shall be released to Garnishee, payable to Homer Bonner Jacobs Ortiz, P.A., Garnishee's attorney, as payment of the statutory garnishment fee.

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

9. The Plaintiff is entitled to attorney's fees pursuant to Fla. Stat. § 57.115. The Court retains jurisdiction to determine a reasonable fee award.

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

THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE