

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.

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS
THOMAS DAIDONE AND ANNE DAIDONE**

Plaintiff, BURTON W. WIAND, as Receiver for OASIS INTERNATIONAL GROUP, LTD.; OASIS MANAGEMENT, LLC; AND SATELLITE HOLDINGS COMPANY (“*Plaintiff*”), pursuant to Fed. R. Civ. P. 55(b)(1) and Local Rule 1.07(b), moves the Clerk of Court to enter a default judgment in the amount of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Defendants, THOMAS DAIDONE and ANNE DAIDONE (collectively “*Daidones*”), and states:

1. On April 15, 2019, Plaintiff was appointed by the Court presiding over *C.F.T.C. v. Oasis International Group, Ltd.*, Case No. 8:19-CV-886-T-33SPF (M.D. Fla.) (the “*Receivership Case*”), as the Receiver and directed Plaintiff to take custody, control and possession of the Receivership Estate. *See* Wiand Affidavit attached hereto as **Exhibit “A.”**

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ATTORNEYS

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2. In connection with Plaintiff's appointment in the Receivership Case, Plaintiff initiated this action and on April 14, 2020, Plaintiff filed his Complaint against the Daidones (Doc. 1).

3. On June 29, 2020, Plaintiff served the Daidones with the summons and complaint (Exhibit A ¶ 4).

4. The Daidones failed to serve or file a responsive pleading or otherwise defend this action. On July 28, 2020, Plaintiff moved for entry of two clerk's defaults against the Daidones. (Doc. 271, 272). On July 29, 2020, the Clerk entered two defaults against the Daidones. (Doc. 286, 287). (Exhibit A ¶ 5).

5. Upon information and belief, the Daidones are not infants or incompetent persons or active duty members of the U.S. Military. (Exhibit A ¶ 6).

6. As set forth in the Complaint, Plaintiff seeks recovery of a sum certain in the amount of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against the Daidones—joint and severally. *See* Compl. Ex. A at 19 (Doc. 1); (Exhibit A ¶ 7).

Legal Memorandum

Fed.R.Civ.P. 55(a) provides that, "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Additionally, Rule 55(b)(1) provides that if the plaintiff's claim is for an amount certain or can be made by certain computation (on plaintiff's request and with an affidavit showing the amount due), the clerk must enter judgment for that amount against a defaulted defendant. In this case, because the Daidones failed to respond to the Complaint, are neither minors nor an incompetent persons, and Plaintiff

has set forth the sum certain of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 with an affidavit showing same, the Clerk must enter a default judgment in the amount of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540.

WHEREFORE, Plaintiff moves for entry of a Default Judgment in the amount of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against the Daidones—joint and severally.

Respectfully submitted,

ENGLANDER FISCHER

/s/ Beatriz McConnell

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and will serve by U.S. mail the following: Thomas Daidone, 27 Fred St., Old Tappan, NJ 07675 and Anne Daidone, 27 Fred St., Old Tappan, NJ 07675.

Dated: August 11, 2020.

/s/ Beatriz McConnell
Attorney for Plaintiff

3. In connection with my appointment in the Receivership Case, I initiated this action and on April 14, 2020, I filed the Complaint against the Daidones (Doc. 1).

4. On June 29, 2020, I served the Daidones with the summons and complaint.

5. The Daidones failed to serve or file a responsive pleading or otherwise defend this action. On July 28, 2020, I moved for entry of two clerk's defaults related to the Daidones. (Docs. 271 and 272). On July 29, 2020, the Clerk entered two defaults against the Daidones. (Docs. 286 and 287).

6. Upon information and belief, the Daidones are not infants, incompetent persons or active duty members of the U.S. Military.

7. As set forth in the Complaint, I seek recovery of a sum certain in the amount of \$12,838.87 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$4,314.66 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against the Daidones—joint and severally. See Compl. Ex. A at 19 (Doc. 1).

FURTHER AFFIANT SAYETH NAUGHT.



BURTON W. WIAND

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgements in the state aforesaid and in the county aforesaid, BURTON W. WIAND personally appeared to me, who is personally known to me to be the person described herein and executed the foregoing and acknowledged before me that he executed the same.

SWORN TO AND SUBSCRIBED before the undersigned this 10th day of August, 2020.



NOTARY PUBLIC

