

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 DEFENDANT
MARIANA DUENAS

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 \$21,622.08 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Defendant, MARIANA DUENAS ("**Duenas**"), and states as follows:

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."**

ENGLANDER FISCHER
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 Duenas (Doc. 1).

3. On May 4, 2020, Plaintiff notified Duenas of this action and requested a waiver of the service of summons pursuant to Fed.R.Civ.P. Rule 4(d). (Exhibit A ¶ 4).

4. Duenas timely served Plaintiff with the executed waiver, which required her to file a responsive pleading on or before July 6, 2020. (Doc. 18).

5. As of the date of this filing, Duenas has not filed a responsive pleading or otherwise defended this action. (Exhibit A ¶ 6). On July 16, 2020, Plaintiff moved for entry of a clerk's default. (Doc. 223). On July 17, 2020, the Clerk entered a default against Duenas. (Doc. 231).

6. Upon information and belief, Duenas is not an infant or an incompetent person or an active duty member of the U.S. Military. (Exhibit A ¶ 7).

7. As set forth in the Complaint, Plaintiff seeks recovery of a sum certain in the amount of \$21,622.08 against Duenas plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 and continuing thereafter at a per diem rate as a decimal of 0.0001647540. *See* Compl. Ex. A at 27 (Doc. 1); (Exhibit A ¶ 8).

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 Duenas failed

to respond to the Complaint, Duenas is neither a minor nor an incompetent person, nor in the military, and Plaintiff has set forth the sum certain of \$21,622.08 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 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 \$21,622.08 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 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 \$21,622.08 against Duenas plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 and continuing thereafter at a per diem rate as a decimal of 0.0001647540.

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 by U.S. mail to the following: Mariana Duenas, 543 Lakeview Dr., Yorktown Heights, NY 10598.

Dated: August 11, 2020.

/s/ Beatriz McConnell
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
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Case No: 8:20-cv-00862-VMC-TGW

CHRIS AND SHELLEY ARDUINI, et al.,

Defendants.

**AFFIDAVIT OF PLAINTIFF BURTON W. WIAND IN SUPPORT
OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST
DEFENDANT MARIANA DUENAS**

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

BEFORE ME, the undersigned authority, appeared Burton W. Wiand, who, first being duly sworn, deposes and says:

1. I am an attorney with Wiand Guerra King P.L. in Tampa, Florida. I make this affidavit in support of the Plaintiff's Motion for Entry of Default and Default Judgment Against Defendant Mariana Duenas ("*Duenas*"). I make this affidavit based on information personally known to me or gathered by me or by others at my request.

2. On April 15, 2019, I 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 to take custody, control and possession of the Receivership Estate.

Exhibit "A"

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

4. On May 4, 2020, I notified Duenas of this action and requested a waiver of the service of summons pursuant to Fed.R.Civ.P. Rule 4(d).

5. Duenas timely served me with the executed waiver, which required her to file a responsive pleading on or before July 6, 2020. (Doc. 17).

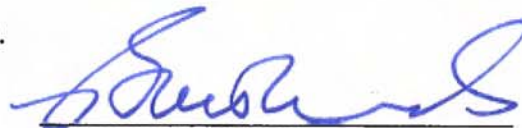
6. Duenas failed to serve or file a responsive pleading or otherwise defend this action. On July 16, 2020, Plaintiff moved for entry of a clerk's default. (Doc. 223). On July 17, 2020, the Clerk entered a default against Duenas. (Doc. 231).

7. Upon information and belief, Duenas is not an infant, an incompetent person or an active duty member of the U.S. Military.

8. As set forth in the Complaint, I seek recovery of a sum certain in the amount of \$21,622.08 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$8,152.80 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Duenas. See Compl. Ex. A at 27 (Doc. 1).

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH


BURTON W. WIAND

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

