

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.

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PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT  
ROCCO GARBELLANO

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 \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Defendant, ROCCO GARBELLANO ("**Garbellano**"), 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 Garbellano (Doc. 1).

3. On May 4, 2020, Plaintiff notified Garbellano 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. Garbellano timely served Plaintiff with the executed waiver, which required him to file a responsive pleading on or before July 6, 2020. (Doc. 162).

5. As of the date of this filing, Garbellano 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.219). On July 17, 2020, the Clerk entered a default against Garbellano. (Doc. 227).

6. Upon information and belief, Garbellano is not an infant, 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 \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Garbellano. *See* Compl. Ex. A at 31-32 (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 Garbellano failed to respond to the Complaint, Garbellano is neither a minor nor an incompetent person, nor a member of the military, and Plaintiff has set forth the sum certain of \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 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 \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Garbellano.

WHEREFORE, Plaintiff moves for entry of a Default Judgment in the amount of \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Garbellano.

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 served by U.S. mail: Rocco Garbellano, 35 McCloud Road, Lafayette, NJ 07848.

Dated: August 11, 2020.

/s/ Beatriz McConnell  
*Attorney for Plaintiff*

**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.

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

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, Rocco Garbellano ("*Garbellano*"). 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 Garbellano (Doc. 1).

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


5. Garbellano timely served me with the executed waiver, which required him to file a responsive pleading on or before July 6, 2020. (Doc. 162).

6. Garbellano 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. 219). On July 17, 2020, the Clerk entered a default against Garbellano. (Doc. 227).

7. Upon information and belief, Garbellano 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 \$268,692.51 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$55,178.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Garbellano. See Compl. Ex. A at 31-32 (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 10<sup>th</sup> day of August, 2020.

  
\_\_\_\_\_  
NOTARY PUBLIC

