

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 BY CLERK AGAINST  
DEFENDANT FORD SUMNER PURSUANT TO FED. R. CIV. P. 55(b)(1)**

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 \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Defendant, FORD SUMNER ("**Ford Sumner**"), 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 Declaration 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 Ford Sumner (Doc. 1). (Exhibit A ¶ 3).

3. On July 1, 2020, Ford Sumner waived service of process for the summons and complaint. See Waiver of Service filed on July 1, 2020 (Doc. 171). (Exhibit A ¶ 4).

4. Ford Sumner failed to serve or file a responsive pleading or otherwise defend this action. On August 17, 2020, Plaintiff moved for entry of a clerk's default. (Doc. 343). On August 18, 2020, the Clerk entered a default against Ford Sumner. (Doc. 354). (Exhibit A ¶ 5).

5. Upon information and belief, Ford Sumner is not an infant or an incompetent person or an active duty member 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 \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Ford Sumner. *See* Compl. Ex. A at 81 (Doc. 1); (Exhibit A ¶ 7).

7. The prejudgment interest in the amount of \$5,122.02 is calculated as directed by the 11<sup>th</sup> Circuit Court of Appeals in *Wiand v. Dancing \$, LLC*, 578 Fed. Appx. 938 (11<sup>th</sup> Cir. 2014).

### ***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 Ford Sumner failed to respond to the Complaint, Ford Sumner is neither a minor nor an incompetent person, and Plaintiff has set forth the sum certain of \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 with a declaration showing same, the Clerk must enter a default judgment in the amount of \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540. *See Wiand v. Dancing \$, LLC*, 578 Fed. Appx. 938 947 (11<sup>th</sup> Cir. 2014) (holding that the Receiver was entitled to recover prejudgment interest on FUFTA claim, "...in light of Florida's general rule that prejudgment interest is an element of pecuniary damages.")

WHEREFORE, Plaintiff moves for entry of a Default Judgment in the amount of \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Ford Sumner.

Respectfully submitted,

ENGLANDER FISCHER

/s/ John W. Waechter

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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 and/or email, as indicated, to the following: Ford Sumner, L7 Midland Chambers, 45 Johnston Street, Wellington 6011 | PO Box 25299, Wellington City 6140, New Zealand.

Dated: August 20, 2020.

/s/ John W. Waechter

*Attorney for Plaintiff*

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**DECLARATION OF PLAINTIFF BURTON W. WIAND IN SUPPORT  
OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT  
FORD SUMNER**

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am an attorney with Wiand Guerra King P.L. in Tampa, Florida. I make this declaration in support of the Plaintiff's Motion for Default Judgment Against FORD SUMNER ("***Ford Sumner***"). I make this declaration 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.

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

**Exhibit "A"**

4. On July 1, 2020, Ford Sumner waived service of process for the summons and complaint. See Waiver of Service filed on July 1, 2020 (Doc. 171).

5. Ford Sumner failed to serve or file a responsive pleading or otherwise defend this action. On August 17, 2020, I moved for entry of a clerk's default. (Doc. 343). On August 18, 2020, the Clerk entered a default against Ford Sumner. (Doc. 354).

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

7. As set forth in the Complaint, I seek recovery of a sum certain in the amount of \$16,187.00 plus prejudgment interest beginning from the date of each false profit distribution through July 31, 2020 in the amount of \$5,122.02 and continuing thereafter at a per diem rate as a decimal of 0.0001647540 against Ford Sumner. See Compl. Ex. A at 81 (Doc. 1).

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19<sup>th</sup> day of August, 2020.

  
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BURTON W. WIAND