

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 :
HOLDING COMPANY,

Plaintiff,

vs.

CHRIS AND SHELLEY ARDUINI, et al

Defendant.

CIVIL ACTION NO: 8:20-cv-00862-VMC-TGW

DEFENDANT, GREGORY CORCORAN
MOTION TO SET ASIDE ENTRY OF DEFAULT
AND/OR DEFAULT JUDGMENT

Defendant, GREGORY CORCORAN, pursuant to Rules 55(c) and/or 60(b) of the Federal Rules of Civil Procedure, moves for an Order setting aside entry of default or in the alternative setting aside default judgment in the event that the Court has addressed the application of plaintiff's counsel and to permit the defendant to file an Answer as within time.

PRELIMINARY STATEMENT

Upon information and belief, the Clerk entered default against me on July 17, 2020 according to information supplied by receiver's counsel, Englander Fischer. I do not have counsel and plan to appear in this action pro-se. On August 20, 2020 I sent an Answer to the Clerk's office certified mail and also sent a copy of that Answer to the Receiver counsel, also by certified mail. I am not conversant in the handling of legal matters but understand in speaking with John Waechter, Esq. of Englander Fischer on August 19, 2020 that he could not withdraw an application that he filed that I understand

seeks to enter a default judgment against me for failing to file an Answer to this matter. I did not understand the nature of the documents that were sent to me in connection with this matter originally and believed that the Complaint and waiver sent to me was for informational purposes because I did not see my name listed as a defendant in the caption and believed the suit was simply a class action brought on behalf of investors in what now appears to be an alleged Ponzi scheme. I was simply one of the investors in what I believed was an entity that was pursuing federal exchange investment opportunities. I now realize that the Complaint is actually claiming that I was paid false profits in this scheme and seeks return of funds. I dispute this allegation and seek to vacate the entry of default to allow me to file an Answer so that I can defend this claim against me.

INTRODUCTION

The Court should set aside entry of default against me pursuant to Federal Rules of Civil Procedure 55(c) or 60 (b) as the case may require because there is good cause for the defendant's delay in appearing in this action. It is my understanding that the receiver's attorney has filed an application to enter default judgment, but I do not have any information as to how and when the Court decides to entertain such an application in that regard. In the alternative, I would seek an Order to vacate that default judgment based upon mistake or other permissible reasons under Rule 60 so that the Answer I mailed to the Court on August 20, 2020 can be filed and I can appear in this case pro se to protect my interests. After I realized that I was actually a defendant in this case, I spoke to the attorney that filed the Motions asking him to withdraw the pending motion, but he indicated that he could not do so. I also told him that I disputed the allegation that

I received false profits as listed on Exhibit A and that the figures on the document specific to me contained inaccurate financial transactions and other false information.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Several years ago, defendant made a \$25,000 investment with Oasis with the understanding that the entity was pursuing foreign exchange trading activity. Subsequently, it is alleged that defendant was one of several investors that were paid false profits under an alleged Ponzi scheme that has led to the arrest and prosecution of several individuals associated with the scheme. When I was sent a packet of documents from a law firm representing the receiver-plaintiff I did not think much of it as I had already ended my relationship with Oasis. I heard that there was an ongoing *inquiry* to illegal activities that were suspected. I quickly looked at the package and did not see or know any of the individuals listed as parties to this suit. I reviewed the waiver and signed it thinking I was simply acknowledging receipt of the package and that some type of class action was being filed by aggrieved investors.

I next received a motion and after reviewing it determined that it was seeking a judgment against me. After taking time to read through all the documents and the Complaint, I realized that I was a defendant in the case that was in fact seeking return of what was referred to as "false profits." I also reviewed Exhibit A to the Complaint and saw there was an accounting summary that suggested that I received thousands of dollars of false profits which I dispute ever receiving. I spoke to the receiver's lawyer to report this and asked for documentation that their experts had to show that I actually received the funds listed on that document. I have also been trying to research my bank records to prove that I did not receive all the funds that are attributed to me so I can defend myself

against the allegation that I was paid \$19,311.51 in profits. Plaintiff has not attached any proofs to their motion for default judgment such as cancelled checks to support the claim that I was paid this amount of money in false profits. I do not know much about the financial records of the companies involved in this alleged Ponzi scheme but it is clear that even the receiver believes that the individuals falsified financial records and that may very well have lead to the auditors to assert that I received this money.

ARGUMENT

Federal Rule of Civil Procedure 55 (c) allows for vacation of entry of default upon a showing of good cause. Franchise Holding II, LLC v. Huntington Rests. Group, Inc., 375 F. 3d 922, 925 (9th Cir 2004). The law does not favor defaults and any doubt in a default situation should be decided in favor of the defaulting party. Bonita Packing Co. v O'Sullivan, 165 F.R.D. 610, 614 (C.D. Cal. 1995) The factors affecting a decision whether to set aside default include whether defendant's culpable conduct led to the default, whether there is a meritorious defense, and whether setting aside the default would prejudice the plaintiff.

Defendant maintains that there is no prejudice to the plaintiff as he has yet to provide hard proof that defendant realized the amount of false profits listed on the document attached as Exhibit A. Furthermore, I believe the Complaint was only filed in April of 2020, so the action has yet to even undergo exchange of information. The application is not filed to delay this matter and granting the application will not hinder any party in pursuing the claim. Defendant disputes the figures on that document that suggest he was paid over \$19000 when the sum of his investment in this company was \$25,000. The Receiver's Complaint suggested that Oasis boasted 12% returns and the

figures on Exhibit A simply do not make sense. In light of the allegations in the criminal matters filed against several individuals heading up this scheme, it is certainly not a stretch that financial records were altered. Finally, I did not ignore this matter, but simply did not know that I was being named as a defendant as I was not listed as a party on the caption on the paperwork that was originally sent to me.

Additionally, if the Court has addressed the motion filed against me for default judgment, the same factors should be considered to vacate that judgment pursuant to Rule 60. I have no experience in matters of litigation so excusable neglect should be entertained to vacate any judgment so that I can file an Answer to protect myself and participate in discussion relating to allegations of false profits being paid to me. TCI Group Life Ins. Plan v Knoebber, 244 F.3d 691, 696, 699 (9th Cir. 2001); Meadows v Dominican Republic, 817 F.2d 517, 522 (9th Cir. 1987) The fact that a party may be denied a quick victory is not sufficient to deny relief from a default judgment particularly where the evidence of alleged false payments has not been affixed to the motion and the defendant disputes receipt of the payments. Bateman v United States Postal Service, 231 F. 3d. 1220, 1225 (9th Cir. 2000)

Allowing the case to move forward on the merits only after a short delay will not prejudice Plaintiff's ability to pursue the case. The defendant is ready and willing to defend this case and engage in discovery to establish meritorious defenses. In the event that the Court might have already granted the motion for default, the defendant maintains that there are sufficient grounds under more than one of the six grounds allowing for vacation of default under Rule 60. These include mistake or inadvertence in not recognizing that defendant was a party to this suit, excusable neglect and where plaintiff

has not provided hard supporting evidence from their auditors that I received payments as alleged.

CONCLUSION

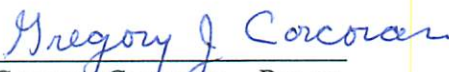
For these reasons, the default and/or default judgment should be set aside to permit this defendant to file the Answer that was mailed to the Court on August 20.

CERTIFICATION OF SERVICE

I hereby certify that I am pro se and have no information or ability to determine all the attorneys that might be involved in this case. I have spoken to the receiver's attorney that filed the Motion for default judgment and I told him I would be filing an answer. I have mailed a copy of the Motion to Vacate to Englander Fischer on August 21, 2020 and previously on August 20, 2020 mailed the Answer to that firm. The only party that has any real interest in this Motion would be the plaintiff who filed for default against me.

Dated: 8/21/20

Respectfully submitted,


Gregory Corcoran – Pro se

35 McCloud Road
Lafayette, New Jersey, 07848
(973-600-6386)
gjcor@embarqmail.com

**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 :
HOLDING COMPANY,

CIVIL ACTION NO: 8:20-cv-00862-VMC-TGW

Plaintiff,

vs.

CHRIS AND SHELLEY ARDUINI, et al

Defendant.

**ORDER GRANTING
DEFENDANT, GREGORY CORCORAN
MOTION TO SET ASIDE ENTRY OF DEFAULT
AND/OR DEFAULT JUDGMENT**

Having considered Defendant's Motion submitted pro se and finding good cause
therefore,

IT IS HERBY ORDERED that Defendant, GREGORY CORCORAN'S, Motion to set
aside Entry of Default and/or Judgment by default is GRANTED. Defendant's Answer
shall be filed by the Clerk as within time.

Dated:

Signed _____

Hon. _____

Gregory Corcoran
35 McCloud Road
Lafayette, New Jersey, 07848

August 21, 2020

United States District Court
Middle District of Florida
Tampa Division
801 North Florida Ave.
Tampa, Florida, 33602
Attention Clerks Office

Re: Burton W. Wiand as Receiver for Oasis v Arduini
Civil Action 8:20-cv-00862-VMC-TGW

Dear Sir/Madam:

Enclosed is a Motion to set aside default and/or default judgment for filing. I previously sent your Office my Answer for filing but have learned that I may need to file this motion in order to allow the Court to accept my Answer. I am pro se in this case.

If you should need anything further, please contact me. I was advised that I needed to send a copy of this Motion to the Receiver and have copied them on this letter and motion. I have to mail this Motion as I do not have access to any Court website to electronically file it and do not have a lawyer.

Thank you for your understanding and assistance.

Very truly yours,

Gregory J Corcoran
Gregory Corcoran pro se

cc: England Fischer (John Waechter)

RECEIVED

2020 AUG 24 PM 3:52

CLERK, US DISTRICT COURT
MIDDLE DISTRICT FLORIDA
TAMPA, FLORIDA

2020 AUG 23 AM 8:56
US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA



1000



33602

U.S. POSTAGE PAID
FCM LG ENV
AUGUSTA, NJ
07822
AUG 21, 20
AMOUNT

\$1.80

R2305K137495-08

FIRST

Gregory Corcoran
35 McCloud Rd
Lafayette NJ 07848

SCREENED
By USMS

United States District Court
Middle District of Florida
Tampa Division
801 North Florida Ave
Tampa Florida 33602