

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CIVIL ACTION NO. 6:21-cv-694-CEM-DCI

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

HARBOR CITY CAPITAL CORP.,
HARBOR CITY VENTURES LLC,
HCCF-1 LLC,
HCCF-2 LLC,
HCCF-3 LLC,
HCCF-4 LLC,
HCCF-5 LLC,
HARBOR CITY DIGITAL VENTURES INC.,
HCC MEDIA FUNDING LLC,
JONATHAN P. MARONEY,

Defendants,

and

CELTIC ENTERPRISES LLC and
TONYA L. MARONEY,

Relief Defendants.

**PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF DEADLINE TO
APPLY FOR DEFAULT JUDGMENTS PURSUANT TO M.D. LOCAL RULE 1.10 (c)**

Plaintiff Securities and Exchange Commission hereby moves for an extension of time to apply for Default Judgments against Defendants Harbor City Capital Corp., Harbor City Ventures LLC, HCCF-1 LLC, HCCF-2 LLC, HCCF-3 LLC, HCCF-4 LLC, HCCF-5 LLC, Harbor City Digital Ventures, Inc., HCC Media Funding LLC ("Corporate Defendants") and Relief Defendant Celtic Enterprises LLC ("Celtic"), who have all defaulted. Middle District Local Rule 1.10 (c) requires that "within thirty-five days after the entry of a default, the

party entitled to a default judgment must apply for the default judgment or must file a paper identifying each unresolved issue-such as the liability of another defendant-necessary to entry of the default judgment.” Here, because the liability of Defendant Jonathan Maroney remains unresolved, the SEC requests that the thirty-five day deadline for applying for default judgments against the Corporate Defendants and Celtic be extended until the liability against Defendant Jonathan Maroney is resolved. In support, the SEC states:

1. On April 20, 2021, the Commission filed a complaint against the Corporate Defendants, Celtic, Jonathan P. Maroney, and Relief Defendant Tonya Maroney (DE 1).

2. The Commission timely served the Corporate Defendants and Celtic with process on April 23, 2021 and April 26, 2021 by serving their registered agents.

3. The Corporate Defendants and Celtic failed to submit any responsive pleadings or other filings and Defaults were entered by the Clerk against all of the Corporate Defendants and Celtic on May 19, 2021. (See DEs 43, 44, 45, 49, 50, 51, 52, 53, 54, 55).

4. Under M.D. Local Rule 1.10 (c), the SEC has until June 23, 2021 to apply for a default judgment or file a paper identifying each unresolved issue necessary to the entry of the default judgment, which the SEC hereby does by this filing.

5. Although Defendant Jonathan Maroney and Relief Defendant Tonya Maroney consented to the Preliminary Injunction being entered, the issues of liability, disgorgement and any civil penalty for which they may be responsible for, remain outstanding. Importantly, Defendant Jonathan Maroney is the founder, Chief Executive Officer, and President of Defendants Harbor City Capital and HC Digital. He is also the

sole Manager of the other Corporate Defendants and Relief Defendant Celtic. Thus, he may be found to be jointly and severally liable for disgorgement along with the Corporate Defendants and Celtic.

MEMORANDUM OF LAW

In general, a court may enter a default judgment when the factual allegations of the complaint, which are assumed to be true, provide a sufficient legal basis for such entry. *Nishimatsu Constr. Co. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975). This general rule, however, has exceptions. “[I]n cases involving more than one defendant, a judgment . . . should not be entered against a defaulting party alleged to be jointly liable, until the matter has been adjudicated with regard to all defendants.” *Nationwide Mut. Fire Ins. Co. v. Creation’s Own Corp.*, Case No. 6:11-cv-1054-Orl-28DAB, 2011 WL 6752561, at *5 (M.D. Fla. Nov. 16, 2011) (citing *Frow v. De La Vega*, 82 U.S. 552 (1872)). The purpose behind this result is the prohibition against logically inconsistent judgments. *See Frow*, 82 U.S. at 554.

Judges in this district have followed *Frow* and declined to enter default judgment against some defendants where claims remain against other defendants due to the risk of inconsistent judgments. *See, e.g., Fed. Trade Comm’n v. MOBE Ltd.*, No. 6:18-cv-862-Orl-37DCI, 2019 WL 3503286 (M.D. Fla. July 1, 2019); *Akbik v. Abdul-Hakeem*, No. 8:18-cv-511-EAK-AAS, 2018 WL 6790259, at *2 (M.D. Fla. Sept. 21, 2018); *Essex Ins. Co. v. Anchor Marine Envtl. Svcs.*, No. 6:10-cv-340-Orl- 4 28DAB, 2010 WL 5174025, at *1 (M.D. Fla. Nov. 18, 2010); *Politano v. Ott*, No. 6:07-cv-958- Or-18DAB, 2008 WL 4104137, at *1 (M.D. Fla. Aug. 6, 2008); *Varela v. Innovative Wiring Sols., LLC*, No. 6:07-cv-165-Orl-28KRS, 2007 WL 4614838, at *2 (M.D. Fla. Dec. 31,

2007). Moreover, the Eleventh Circuit has also extended this prohibition against logically inconsistent judgments to other cases beyond those where liability is deemed to be joint. In this Circuit, it is “sound policy” that “when defendants are similarly situated, but not jointly liable, judgment should not be entered against a defaulting defendant if the other defendant prevails on the merits.” *Gulf Coast Fans v. Midwest Elecs. Imp.*, 740 F.2d 1499, 1512 (11th Cir. 1984) (citation omitted).

The rationale of *Frow* and *Gulf Coast Fans* applies here. The issues of liability, and payment of a disgorgement and a civil penalty by Defendant Jonathan Maroney remain outstanding, as well as whether he will be held jointly and severally liable for disgorgement with the Corporate Defendants. Moreover, entering a default judgment against only the Corporate Defendants raises the possibility of inconsistent judgments should Defendant Jonathan Maroney successfully defend against the SEC’s claims.

Thus, the SEC requests that the deadline for applying for a default judgment against the Corporate Defendants and Celtic be extended until the liability against Defendant Jonathan Maroney is determined.

Local Rule 3.01(g) Certification

Pursuant to Local Rule 3.01(g) undersigned counsel for the Commission have conferred with counsel for Defendant Jonathan Maroney who does not oppose the relief requested in this motion.

Dated: June 16, 2021

Respectfully submitted,

By: s/ Alise Johnson
Alise Johnson

Senior Trial Counsel
Florida Bar No. 0003270
Tel: (305) 982-6385
Email: Johnsonali@sec.gov
Attorney for Plaintiff
**SECURITIES AND EXCHANGE
COMMISSION**
801 Brickell Avenue, Suite 1950
Miami, Florida
Tel.: (305) 982-6300

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 16, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the below Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to received electronically Notices of Electronic Filing.

SERVICE LIST

Mark M. O'Mara, Esq.
O'MARA LAW GROUP
221 NE Ivanhoe Boulevard, Suite 200
Orlando, Florida 32804
Email: Mark@omaralawgroup.com

s/Alise Johnson
Alise Johnson, Esq.