

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 08-cv-01088-MSK-CBS

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ICON WORLD CORPORATION, (dba ICON WORLD RESOURCES and ICON
CORPORATION),
SUNCO RESOURCES, LLC.,
JEFFREY M. ZAMORSKY,
JESSE ANTHONY “TONY” AGUILAR, and
CHRISTINE M. ZAMORSKY (aka CHRISTINE M. AGUILAR),

Defendants.

**OPINION AND ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION
AND GRANTING MOTIONS FOR DEFAULT JUDGMENT**

THIS MATTER comes before the Court pursuant to the Plaintiff’s Motion for Preliminary Injunction (**# 4**); and the Plaintiff’s Motion for Default Judgments (**# 58**) against Defendant Jeffery Zamorsky and Defendant Jesse Aguilar.¹ The Court understands that the Plaintiff intends to dismiss (**# 63**) claims against Defendants Icon World Corporation and Sunco Resources, LLC without prejudice, and intends to effect service on Defendant Christine Zamorsky within the time period provided by the Magistrate Judge’s March 20, 2009 Minute Order (**# 66**).

It appearing from the current status of the case that the Plaintiff is unable to make the

¹To the extent the Motion for Default Judgments is referred to the Magistrate Judge, that reference is withdrawn.

showings necessary for issuance of a preliminary injunction,² the Motion for Preliminary Injunction (# 4) is **DENIED** without prejudice.

As to the Motions for Default Judgment against Defendants Jeffery Zamorsky and Jesse Aguilar, the Court finds that both Defendants were served with process (# 12, 22); that both Defendants have failed to appear or defend in this action; and that the Clerk of the Court has entered the default of both Defendants (# 40, 48). Having considered the factual showings by the Plaintiff as to both liability and damages, and finding those showings to be unrebutted and legally sufficient to entitle the Plaintiff to the most of the items of requested relief,³ the Motion for Default Judgments (# 58) is **GRANTED** and, contemporaneously with this Order, enters judgment by default under Fed. R. Civ. P. 55(b)(2) against Defendants Jeffery Zamorsky and

²Specifically, as to Defendants Icon and Sunco, the Plaintiff's dismissal of the claims against them prevents the Plaintiff from showing a likelihood of success on the merits. As to Defendants Jeffery Zamorsky and Jesse Aguilar, the Court enters final and permanent injunctive relief against them, rendering any preliminary injunctive relief moot. As to Defendant Christine Zamorsky, the Plaintiff represents that Ms. Zamorsky is presently incarcerated and thus, is unable to continue to meaningfully engage in the conduct sought to be enjoined. Should the Plaintiff conclude that Ms. Zamorsky has resumed a course of conduct that poses a threat of imminent, irreparable harm, the Plaintiff may renew its request for preliminary injunctive relief.

³The Court declines to include a civil penalty as a component of the default judgment. The Plaintiff does not specify the amount of the penalty it requests against each Defendant, nor does it expressly address the factors justifying such an amount. The Court is not inclined to assess a penalty in an abstract amount without specific guidance from the parties, particularly where the motion for default judgment fails to give the Defendants adequate notice of the amount of the penalty sought.

Jesse Aguilar. Because these judgments will completely resolve the case as it relates to these Defendants, and the Court finds no just reason to delay entry, the judgments shall be certified pursuant to Fed. R. Civ. P. 54(b).

Upon the representation by the Plaintiff that it does not intend to pursue the claims against Defendants Icon and Sunco, those claims are **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(a)(2). The caption of this case is **AMENDED** to remove Defendants Icon and Sunco.

Dated this 31st day of March, 2009

BY THE COURT:

A handwritten signature in black ink, reading "Marcia S. Krieger". The signature is written in a cursive, flowing style. The first name "Marcia" is written with a large, prominent "M". The middle initial "S." is written in a smaller, more compact script. The last name "Krieger" is written with a large, prominent "K" and a long, sweeping tail that extends to the right. The signature is positioned above a horizontal line.

Marcia S. Krieger
United States District Judge