

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

GEORGE FOXX,

Plaintiff

VS.

MY VINTAGE BABY, INC., et al.

Defendants.

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CASE NO. 4:12cv593

**MEMORANDUM OPINION AND ORDER OF UNITED STATES MAGISTRATE
JUDGE GRANTING FINAL DEFAULT JUDGMENT AGAINST DEFENDANTS**

The Court held a hearing on *Pro Se* Plaintiff’s Motions for Final Default Judgment against My Vintage Baby, Inc. and Jessica Smith Wiswall (Dkt. 22) and Vintage Couture, Inc. (Dkt. 24) on July 25, 2013. Having considered the arguments and evidence presented and the record before the Court, the Court finds that the motion should be GRANTED.

Plaintiff filed this suit on September 17, 2012 against Defendants My Vintage Baby, Inc., Jessica Smith Wiswall and Trista Sutter. *See* Dkt. 1. On November 15, 2012, he amended his complaint to drop the claims against Trista Sutter and add claims against Defendant Vintage Couture, Inc. *See* Dkt. 18. Plaintiff, a Florida resident, seeks the return of a \$45,000 investment made in McKinney, Texas companies through the purchase of 30,000,000 shares of worthless stock

According to the record, service of the summons and complaint was executed on Defendants My Vintage Baby, Inc. and Jessica Smith Wiswall on September 19, 2012. *See* Dkts. 8 & 9. Service of the summons and complaint was executed on Defendant Vintage Couture, Inc. on November 16,

2012. *See* Dkt. 21. When no answers were timely filed by Defendants, Clerk's entries of default were entered as to Defendants on October 12, 2012 and March 4, 2013. *See* Dkts. 15, 16 & 26.

Plaintiff then filed his motions for default judgment. After the motions had been pending for more than six months without any responses or appearance by Defendants, the Court set the motions for hearing. *See* Dkt. 29. A copy of the hearing notice was sent to all Defendants.

At the hearing, Plaintiff appeared. Defendants did not appear.

Plaintiff has asked that the Court enter default judgment against Defendants. Under Federal Rule of Civil Procedure 55, default is appropriate if a defendant has "failed to plead or otherwise defend" the suit. FED. R. CIV. P. 55(a). Having reviewed the record here, the Court finds that default is appropriate as Defendants have failed to defend the claims against them. Further, having reviewed the record before it regarding Plaintiff's allegations and damages, including the evidence presented at the July 25, 2013 hearing, the Court finds that Plaintiff is entitled to actual damages in the amount of \$45,000.00, plus any applicable pre-judgment and post-judgment interest.

The Court further finds that, pursuant to the provisions of Rule 54 of the Federal Rules of Civil Procedure, Plaintiff is entitled to costs of court.

Therefore, as set forth herein, Plaintiff's Motions for Final Default Judgment against My Vintage Baby, Inc. and Jessica Smith Wiswall (Dkt. 22) and Vintage Couture, Inc. (Dkt. 24) are GRANTED and the final default judgment is entered for Plaintiff as follows.

That Plaintiff George Foxx shall recover from and against Defendants My Vintage Baby, Inc., Jessica Smith Wiswall, and Vintage Couture, Inc., jointly and severally as follows:

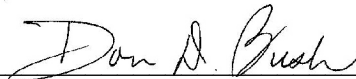
- a) actual damages: \$45,000.00;

- b) pre-judgment and post-judgment interest; and
- c) costs of court.

This judgment is final, and the matter shall be closed on the Court's docket.

SO ORDERED.

SIGNED this 29th day of July, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE