

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 09-cv-00497-REB-BNB

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

THE REGENCY GROUP, LLC, et al,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR AN ORDER ENTERING
DEFAULT JUDGMENTS AGAINST DEFENDANT JOSEPH S. FERNANDO
AND DEFENDANT WELLINGTON CAPITAL ENTERPRISES, INC.**

Blackburn, J.

The matter before me is **Plaintiff's Motion for an Order Entering Default Judgments Against Defendant Joseph S. Fernando and Defendant Wellington Capital Enterprises, Inc.** [#55] filed December 30, 2009. I deny the motion.

The Tenth Circuit has recognized that "Rule 55 mandates a two-step process for a party who seeks a default judgment in his favor."

First, the party wishing to obtain a default judgment must apprise the court that the opposing party has failed to plead or otherwise defend by requesting by affidavit or otherwise that the clerk enter default on the docket. Second, following an entry of default by the clerk, the party entitled to a judgment by default shall apply to the court therefor.

Williams v. Smithson, 1995 WL 365988 at *1 (10th Cir. June 20, 1995) (internal citations and quotation marks omitted); **see also Garrett v. Seymour**, 2007 WL 549388 at *2 (10th Cir. Feb. 23, 2007) (describing clerk's entry of default under Rule 55(a) as "a

prerequisite for the entry of a default judgment" under Rule 55(b)). It appears from the docket that plaintiff has never requested an entry of default from the Clerk of the Court as to either of the two defendants implicated by the present motion. Its request for a default judgment is premature.

THEREFORE, IT IS ORDERED that Plaintiff's Motion for an Order Entering Default Judgments Against Defendant Joseph S. Fernando and Defendant Wellington Capital Enterprises, Inc. [#55] filed December 30, 2009, is **DENIED**.

Dated February 10, 2010, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge