

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

TY BRUGGEMANN, et al.,

Plaintiffs,

v.

Case No. 8:09-cv-2562-T-30MAP

THE AMACORE GROUP, INC., et al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon Plaintiffs' Motion for an Entry of Clerk's Default against Defendants The Amacore Group, Inc. and Jay Shafer (Dkt. 111). The Court, having reviewed the motion, and being otherwise advised in the premises, concludes that the motion should be denied.

Rule 55(a) of the Federal Rules of Civil Procedure makes it clear that a clerk's default is only appropriate against a party who has failed to plead or otherwise defend himself. Here, the record is abundantly clear that Defendants The Amacore Group, Inc. ("Amacore") and Jay Shafer ("Shafer") have appeared and defended themselves in this case.

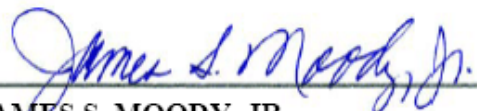
Plaintiffs appear to be under the mistaken belief that they are entitled to a clerk's default against Amacore and Shafer because they did not file an answer to certain counts in Plaintiffs' complaint within fourteen (14) days from the Court's July 6, 2010 Order, denying in part, their motion to dismiss as to those counts. Although Plaintiffs are correct that Amacore and Shafer should have filed responses to these counts within fourteen (14) days

from the Court's July 6, 2010 Order, entering a clerk's default for this failure is not an appropriate remedy under the Federal Rules of Civil Procedure.

Accordingly, although the Court denies Plaintiffs' motion for a clerk's default, the Court hereby orders Amacore and Shafer to file their responses to the remaining counts in Plaintiffs' complaint as set forth in the Court's July 6, 2010 Order (Dkt. 97) by Wednesday, August 18, 2010. If Amacore and Shafer fail to file a response by this time, Plaintiffs may file a motion for default judgment against them pursuant to Fed.R.Civ.P. 55(b).

It is therefore ORDERED AND ADJUDGED that, for the reasons set forth herein, Plaintiffs' Motion for an Entry of Clerk's Default against Defendants The Amacore Group, Inc. and Jay Shafer (Dkt. 111) is DENIED.

DONE and **ORDERED** in Tampa, Florida on August 5, 2010.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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