

## ORDER GRANTING PLAINTIFFS' SECOND MOTION FOR DEFAULT JUDGMENT

Before the Court is the Second Motion for a Default Judgment filed by Plaintiffs Archie Bennett, Jr., Montgomery Bennett, David Kimichik, and James Cowen (collectively, "Plaintiffs"). Having reviewed the Motion and the relevant legal principles, the Court finds the Plaintiffs' Motion to be meritorious. The Court finds that Nantucket Enterprises, Inc. ("Defendant") is in default as a matter of the Court's record. Additionally, having considered the factors set forth by the Fifth Circuit Court of Appeals in *Lindsey v. Prive Corporation*, the Court finds this civil action to be appropriate for entry of a declaratory judgment. 161 F.3d 886 (5<sup>th</sup> Cir. 1998). The Court is, therefore, of the opinion that the Plaintiffs' Second Motion for a Default Judgment should be, and hereby is, GRANTED. Accordingly, it is hereby

ORDERED that a default judgment shall be entered against Defendant for its failure to plead or otherwise defend. Further, the Court hereby

DECLARES that, upon its default, Nantucket has admitted Plaintiffs' well-pleaded allegations of fact. *Thomson v. Wooster*, 114 U.S. 104, 111 (1885) ("The bill, when confessed by

Certified a true copy of an instrument on file in my office on 3-31-1/
Clerk, U.S. District Court,
Northern District of Fexas
By Molar Deputy

the default of the defendant, is taken to be true in all matters alleged with sufficient certainty[.]"); Mayflower Transit, L.L.C. v. Troutt, 332 F. Supp. 2d 971, 975 (W.D. Tex. 2004) (citing Nishimatsu Const. Co., Ltd. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975)). The Court further

DECLARES that Plaintiffs shall not be liable to Nantucket Enterprises, Inc., in any way, shape, or form for claims related or connected to the allegations in this civil action including, but not limited to, fraud, conspiracy to commit fraud, replevin, breach of settlement agreement, constructive trust, unjust enrichment, and/or any violation(s) of the Racketeer Influenced and Corrupt Organizations Act and that Plaintiffs shall not be liable to Nantucket Enterprises, Inc., in any way, shape, or form for any act or omission concerning the prior leasing of retail space to Nantucket Enterprises, Inc., in the Embassy Suites Hotel, in Palm Beach County, Florida, including, but not limited to, any claims arising from or relating to any liquor licenses or applications for liquor licenses at the Embassy Suites Hotel. The Court further

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ORDERS that costs of Court shall be taxed against Nantucket Enterprises, Inc. in the amount of \$516.68. The Court further

ORDERS that Defendant shall be liable to Plaintiffs for the amount of \$13,865.00, which the Court finds is the amount of reasonable and necessary attorney's fees incurred by Plaintiffs in this civil action.

IT IS SO ORDERED.

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Dated: //aud/15, 2011

HOM/JANE BOYLE

J,\$,/DISTRICT JUDGE