

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

ADM INVESTOR SERVICES, INC.,)	
)	
Movant,)	Case No. 10-CV-03266
)	
v.)	Hon. William T. Hart
)	
FLUXO-CANE OVERSEAS, LTD., and)	
MANOEL FERNANDO GARCIA,)	
)	
Respondents.)	

MOVANT’S MOTION FOR ENTRY OF A RULE 58 JUDGMENT

Pursuant to Rule 58(a) & (b)(2) of the Federal Rules of Civil Procedure, Movant ADM Investor Services, Inc. respectfully requests the Court to direct the entry of a Rule 58 Judgment. In support of this Motion, Movant states as follows:

On Movant’s Motion [Docket No. 12], the Court has entered an Order of Default Judgment against Respondent Fluxo-Cane Overseas, Ltd. confirming an arbitration award in Movant’s favor. A copy of that Order of Default Judgment is attached as Exhibit 1. That was the final order in the case because prior to its entry, Movant had voluntarily dismissed the other Respondent without prejudice. [Docket No. 14].

Rule 54(a) provides that a “judgment should not include recitals of pleadings . . . or a record of proceedings.” Therefore, as a technical matter, because it does include a recital of pleadings and a record of proceedings, the Order of Default Judgment does not constitute a “judgment.”

Further, with exceptions not applicable here, Rule 58(a) provides that “[e]very judgment and amended judgment must be set out in a separate document” Furthermore, Rule 58(b)(2)(B) requires the Court’s prompt approval, and the Clerk’s prompt entry, of “the form of judgment when. . . the Court grants other relief not described in this subdivision (b),” the situation

which pertains here because the judgment is a default judgment not otherwise described in Rule 58(b).

Therefore, Movant respectfully submits that a separate Judgment is required to be entered in this case, and so moves. A copy of the proposed Judgment is attached hereto as Exhibit 2, which has also been emailed to Chambers (in editable pdf format).

WHEREFORE, pursuant to Rule 58(a) & (b)(2) of the Federal Rules of Civil Procedure, Movant ADM Investor Services, Inc. respectfully requests the Court to direct the entry of a Rule 58 Judgment.

* * * *

Respectfully submitted,

Dated: October 26, 2010

s/ Constantine John Gekas
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