**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF SOUTH CAROLINA**
**CHARLESTON DIVISION**

| | | |
|---|---|---|
| KENNETH SILVERMAN, Plaintiff, | ) | No. 2:12-CV-1102 DCN |
| vs. | ) | **ORDER** |
| STEVEN A. SEGAL, Defendant. | ) | |

This matter is before the court on plaintiff Kenneth Silverman's ("Silverman") motion for default judgment. At a hearing held on January 22, 2014, Silverman presented evidence in support of his motion. Defendant Steven Segal ("Segal") has been notified of this lawsuit by publication but did not appear at the hearing. Segal's current whereabouts are unknown. The court makes the following findings based upon the evidence presented at the hearing.

Silverman and Segal were business partners in a securities trading company called Kest Investments, LLC ("Kest"). Silverman and Segal agreed to share the company's profits, losses and expenses equally. Kest traded securities through open accounts it held at a brokerage firm called VTrader Pro LLC ("VTrader"). In or around 2009, Segal encountered financial difficulties, and Silverman loaned him money on four separate occasions. On January 10, 2012, Segal paid Silverman $75,391.99 ("Segal's first payment"). On July 24, 2012, Segal paid Silverman $89,979.63 ("Segal's second payment"). The parties agreed that Segal's first and second payments would be applied to the loan principals and interest.

Three of the loans have been repaid in full. Segal owes Silverman the remaining balance of the fourth loan, as well as other sums. The court discusses these in turn.

**The first loan.** On April 20, 2010, Silverman loaned Segal $80,000.00 ("the first loan"). The parties initially agreed that the first loan would be repaid by October 22, 2010, and that it would accrue 10% simple annual interest if it was not timely paid. Before the first interest payment was due, the parties increased the rate to 15% simple annual interest. The first loan was not repaid by its due date. On April 20, 2011, the first loan accrued $12,000.00 in interest. On January 10, 2012, Segal's first payment of $75,391.99 was credited to the first loan. This payment resulted in a loan balance of $16,608.01. On April 20, 2012, the first loan accrued $2,491.20 in interest, 15% of the remaining principal. On July 25, 2012, the first loan was extinguished when its balance and interest – totaling $19,099.21 – were paid in full by Segal's second payment.

**The second loan.** On June 10, 2010, Silverman loaned Segal $15,000.00 ("the second loan"). The parties initially agreed that the second loan would be repaid by October 22, 2010, and that it would accrue 10% simple annual interest if it was not timely paid. Before the first interest payment was due, the parties agreed to increase the rate to 15% simple annual interest. On June 10, 2011, the second loan accrued $2,250.00 in interest. On June 10, 2012, the second loan accrued $2,250.00 in interest. On July 25, 2012, the second loan was extinguished when its balance and interest – totaling $19,500.00 – were paid in full by Segal's second payment.

**The third loan.** On September 3, 2010, Silverman loaned Segal $10,000.00 at a 15% simple annual interest rate ("the third loan"). The third loan's due date was August 25, 2011. On September 3, 2011, the third loan accrued $1,500.00 in interest. On July

25, 2012, the third loan was extinguished when its balance and interest – totaling $11,500.00 – were paid in full by Segal's second payment.

**The fourth loan.** On December 7, 2010, Silverman loaned Segal $35,000.00 at a 15% simple annual interest rate ("the fourth loan"). On December 7, 2011, the fourth loan accrued $5,250.00 in interest. On July 25, 2012, the fourth loan's balance was significantly reduced when the remainder of Segal's second payment – $39,880.42 – was applied to it. Segal's second payment resulted in a loan balance of $369.58. On December 7, 2012, the fourth loan accrued $55.44 in interest, 15% of the remaining principal. On December 13, 2013, the fourth loan accrued another $55.44 in interest. As of the date of this order, Segal owes $480.46 on the fourth loan.

**The late fee.** On June 10, 2010, the parties agreed that Segal would incur a $500.00 per day late fee if the first and second loans were not repaid in full by October 22, 2010. On December 7, 2010, the parties agreed to cap that late fee at $45,000.00. Because he did not fully repay the first and second loans until July 25, 2012, Segal owes Silverman the $45,000.00 maximum late fee.

**Kest's trading losses.** Both Silverman and Segal traded on Kest's behalf through a single VTrader account, Account No. 68706. Segal stopped trading on Kest's behalf in September 2009; at the time, Account No. 68706 had a negative balance. Sometime near the end of 2012, VTrader charged that $237,542.00 negative balance against one of Silverman's personal VTrader accounts. As Silverman and Segal agreed to share Kest's assets and liabilities equally, Segal owes Silverman $118,771.00, half of Account No. 68706's losses.

**Segal's health insurance costs.** When the parties formed Kest, they agreed that Segal could obtain health insurance through VTrader, but that the cost of Segal's health insurance would be solely his expense. VTrader deducted Segal's health insurance premiums from Kest's accounts; Segal was expected to reimburse the Kest accounts for his health insurance costs. As Segal has not reimbursed the Kest accounts for his health insurance costs, Segal owes Silverman $49,653.00, the sum of those costs.

**VTrader data fees.** After Segal stopped trading for Kest in 2009, he continued to receive live, trading-related data through VTrader. Correspondence dated April 11, 2011 shows that the parties agreed that Segal would be personally responsible for these fees, which are not associated with work done for Kest. These fees total $31,824.53.

In total, Segal owes Silverman the following sums:

| Description | Amount |
|---:|---:|
| The fourth loan | $ 480.46 |
| The late fee | $ 45,000.00 |
| Kest's trading losses | $ 118,771.00 |
| Segal's health insurance costs | $ 46,653.00 |
| VTrader data fees | $ 31,824.53 |
| **TOTAL OWED** | **$ 242,728.99** |

Based on the foregoing, the court **GRANTS** plaintiff Kenneth Silverman's motion for default judgment. The court further **ORDERS** defendant Steven A. Segal to pay Silverman $242,728.99.

**AND IT IS SO ORDERED.**

**DAVID C. NORTON**
**UNITED STATES DISTRICT JUDGE**

**March 20, 2014**
**Charleston, South Carolina**