

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF FLORIDA
ORLANDO DIVISION

2006 APR 21 12:04
U.S. DISTRICT COURT
DISTRICT OF FLORIDA
ORLANDO, FLORIDA

SECURITIES AND EXCHANGE *
COMMISSION *

v. *

CIVIL ACTION FILE NO:
6:06-cv-137-Orl-19 KRS

EDWARD S. DIGGES, JR., ET AL. *

* * * * *

**DEFENDANT, EDWARD S. DIGGES, JR.'S, PRO SE MOTION
TO SET ASIDE ENTRY OF DEFAULT AND REQUEST FOR HEARING**

Defendant, Edward S. Digges, Jr., proceeding pro se, pursuant to Federal Rule Civil Procedure 55(c), moves for relief from the entry of default in the above-entitled matter; specifically, to have the entry of default set aside and the case proceed on its merits, and in support thereof, states as follows:


1. The Complaint was filed on February 2, 2006.
2. On February 15, 2006, by consent, the Court granted an injunction freezing all assets of the Defendant and appointing a Receiver to take control of the other entity defendants.
3. Since the granting of the injunction, Defendant has attempted to negotiate some relief with the Receiver and Plaintiff to allow him funds to not only pay for basic living expenses, but also to retain counsel to represent him in this matter. To date, Plaintiff and the Receiver have refused to release assets for these purposes.
4. On March 30, 2006, Plaintiff filed a Motion for Entry of Default with the Clerk pursuant to Fed. R. Civ. Proc. 55(a) based on Defendant's failure to plead to the Complaint. Defendant did not learn that the Motion was filed until April 4, 2006.

5. On April 5, 2006, the Clerk entered a default against the Defendant as well as the other defendants in this case.

6. Defendant's failure to file a responsive pleading was due to excusable neglect. Further, he has a meritorious defense to the allegations in the Complaint. No prejudice to the government would inure by the granting of this motion, particularly at this very early stage in the litigation in which there has been very little discovery and no factual determinations have been made.

WHEREFORE, for the foregoing reasons, and for good cause shown, as more fully set forth in the attached memorandum in support of this motion, the Defendant respectfully prays that the Court set aside the entry of default and allow the Defendant an opportunity to proceed pro se and file his first responsive pleading.


Respectfully submitted,



Edward S. Digges, Jr.
pro se

REQUEST FOR HEARING

Defendant requests a hearing on this Motion.



Edward S. Digges, Jr.
pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April 2006, a copy of the foregoing Motion and Memorandum to Set Aside Entry of Default and Request for Hearing was sent via overnight mail to:

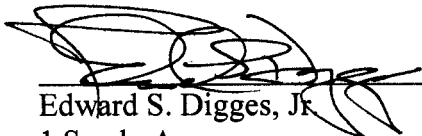
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