

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-28101

ENCORE MANAGEMENT COMPANY, INC., et al.,

Defendants.

**ORDER**

Pending before the Court is a Motion for Summary Judgment by Defendants Encore Management Company, Inc. (“Encore”) and Perkins Parke Limited Partnership (“Perkins Parke LP”) (ECF No. 94), and the United States’ Motion for Entry of Default Judgment (ECF No. 102).

On November 14, 2014, the United States filed the instant Fair Housing Act complaint against individual defendants Anthony James, Christopher James, and Kisha James (collectively, the “Individual Defendants”), and corporate defendants Encore and Perkins Parke LP (collectively, the “Corporate Defendants”). On March 25, 2016, the Court granted a motion to intervene by Misty Thompson, granting her status as an intervenor-plaintiff in the United States’ action. (ECF No. 93.) Following a motions hearing on August 12, 2016, the Court granted a joint motion to enter a consent order resolving the United States’ claims against the Corporate Defendants. (ECF No. 114.) The Court took under advisement the United States’ motion for default judgment

against the Individual Defendants and the Corporate Defendants' motion for summary judgment against Ms. Thompson, the intervenor-plaintiff.

Since that time, the Court has been advised that claims asserted in Ms. Thompson's complaint in intervention have been compromised and settled. Therefore, it is **ORDERED** that Ms. Thompson's complaint in intervention be **DISMISSED WITH PREJUDICE**, subject to reopening on motion of any affected party, and for good cause shown, within 90 days. Neither Ms. Thompson nor the defendants need submit any additional proposed dismissal order or other final order unless it is required by law or is necessary under the terms of any agreement resolving Ms. Thompson's claims. In light of this disposition, the Corporate Defendants' Motion for Summary Judgment against Ms. Thompson (ECF No. 94) is **DENIED AS MOOT**.

As noted above, the United States filed the instant complaint on November 14, 2014. None of the Individual Defendants have answered the complaint or otherwise defended against this lawsuit, despite being properly served on November 21, 2014. (*See* ECF Nos. 11–13.) On December 23, 2014, the United States applied for entry of default (ECF No. 14), and the Clerk entered default against each individual defendant the following day, pursuant to Federal Rule of Civil Procedure 55(a), (ECF No. 15). The United States moved for entry of a default judgment against the Individual Defendants on May 23, 2016. The Court took the motion under advisement at the August 12, 2016 motions hearing, and it is now ripe for disposition.<sup>1</sup>

A district court is “vested with discretion, which must be liberally exercised, in entering [default] judgments and providing relief therefrom.” *United States v. Moradi*, 673 F.2d 725, 727

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<sup>1</sup> At that hearing, counsel for the Corporate Defendants objected to the motion for default judgment, arguing that default judgment should not be entered until resolution of the suit between Ms. Thompson and the Corporate Defendants. As described above, that suit has now been resolved and the Corporate Defendants have withdrawn their objection to the United States' motion.

(4th Cir. 1982). When considering a motion for default judgment, courts should review the complaint to determine if the “face of the pleadings supports the default judgment and the causes of action therein.” *Anderson v. Found. for Advancement, Educ. & Employment of Am. Indians*, 187 F.3d 628 (4th Cir. 1999) (citing *Nishimatsu Constr. Co. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975). “Upon default, the well-pled allegations in a complaint as to liability are taken as true, although the allegations as to damages are not.” *SEC v. Lawbaugh*, 359 F. Supp. 2d 418, 422 (D. Md. 2005). “While a court may choose to require a hearing, it may also award damages based on affidavits and documentary evidence.” *Masco Corp. v. Bennett*, No. 3:08-cv-161-RJC-DCK, 2010 WL 1405136, at \*2 (W.D.N.C. Mar. 31, 2010); *see also* Fed. R. Civ. P. 55(b)(2) (providing that a court may hold a hearing before entering default judgment as necessary to “conduct an accounting,” “determine the amount of damages,” “establish the truth of any allegation by evidence,” or “investigate any other matter”). “In conjunction with a default judgment, the Court may also order injunctive relief.” *Laborers’ Dist. Council Pension v. E.G.S., Inc.*, Civil No. WDQ-09-3174, 2010 WL 1568595, at \*5 (D. Md. Apr. 16, 2010) (collecting cases).

The Court finds that the allegations in the complaint, as supplemented by the evidence submitted in support of the instant motion for default judgement, support the requested default judgment in this case. Accordingly, the United States’ Motion for Default Judgment (ECF No. 102), is **GRANTED**. The Court **ENTERS** final judgment against Individual Defendants Anthony James, Christopher James, and Kisha James and **ORDERS** the following:

- (1) That a civil penalty in the amount of \$55,000 is assessed against Anthony James for his violation of the Fair Housing Act, 42 U.S.C. § 3601 et seq.

- (2) That a civil penalty in the amount of \$30,000 is assessed against Christopher James for his violation of the Fair Housing Act, 42 U.S.C. § 3601 et seq.
- (3) That a civil penalty in the amount of \$5,000 is assessed against Kisha James for her violation of the Fair Housing Act, 42 U.S.C. § 3601 et seq.
- (4) That Anthony James, Christopher James, and Kisha James are each permanently enjoined from violating the Fair Housing Act, 42 U.S.C. § 3601 et seq.
- (5) That Anthony James and Christopher James are each permanently enjoined from directly or indirectly participating in property management at any residential rental property at any time in the future. For purposes of this Order, “property management” includes showing or renting units; processing rental applications; making, responding to, or supervising repairs or maintenance; setting rents or security deposits; determining tenant eligibility for subsidies or waivers of fees and rent; determining to whom to rent, whom to evict, and/or whose lease to renew or not renew; inspecting dwelling units; collecting rent or fees; overseeing any aspect of the rental process; or engaging in any property management activities of any type that involve, or may involve, personal contact with tenants or prospective tenants.

The Court will retain jurisdiction of this matter pursuant to Section XI of the Consent Order between the United States and the Corporate Defendants for the limited purposes described therein. (*See* ECF No. 113.) Subject to that qualification, the Court **DISMISSES** the current action and **DIRECTS** the Clerk to remove this case from the active docket. A separate Judgment Order will issue memorializing the Court’s findings.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party, including the pro se Defendants Anthony James, Christopher James, and Kisha James.

ENTER: March 20, 2017

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE