

CIVIL DOCKET# SUCV2013-00047

Comm of Mass
vs
Jesse J Clarke,
Veronica A Clark,
Keith W Morin,
Sureshot Portraits LLC

FINAL JUDGMENT
(pursuant to Mass.R.Civ.P. 54(b))

This action came on before the Court, Paul E. Troy, Justice, presiding, and upon Plaintiff's Motion for entry of separate and final Judgment pursuant to Mass.R. Civ. P. 54(b) and the Court having found and determined that there is no just reason for delay in the entry of final Judgment and therefore allowed said motion, and upon consideration thereof,

It is **ORDERED** and **ADJUDGED**:

That the plaintiff, Commonwealth of Massachusetts recover of the defendants Jesse J Clarke and SureShot Portraits LLC restitution in the sum of **\$136,230.63**, jointly and severally, 93A Civil Penalties in the sum of **\$343,000.00**, jointly and severally, and costs and attorney's fees in the sum of **\$27,000.00**, jointly and severally.

Dated at Boston, Massachusetts this 11th day of June, 2013.

Michael Joseph Donovan,
Clerk of the Courts

By: 
Assistant Clerk

Noted
6/12/13
MS
RAG

JUDGMENT ENTERED ON DOCKET 6/12 2013
PURSUANT TO THE PROVISIONS OF MASS. R. CIV. P.58(a)
AND NOTICE SEND TO PARTIES PURSUANT TO THE PRO-
VISIONS OF MASS. R. CIV. P. 77(d) AS FOLLOWS

THIS COPY OF JUDGMENT ONLY ENTERED ON 6-12-2013

NOTICE

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 2013-0047A

COMMONWEALTH OF MASSACHUSETTS,)
))
Plaintiff,)
))
v.)
))
JESSE J. CLARK; VERONICA A. CLARK; KEITH)
W. MORIN; and SURESHOT PORTRAITS, LLC,)
))
Defendants,)
))
COUNTRY BANK FOR SAVINGS,)
))
Trustee-Defendant.)
_____)

*Notice Court
6/12/13
MS
RAG*

**FINDINGS AND FINAL JUDGMENT BY DEFAULT
AS TO JESSE J. CLARK AND SURESHOT PORTRAITS, LLC**

This matter came on for hearing before the Court on 6/11/13 upon the motion of the plaintiff, Commonwealth of Massachusetts, pursuant to Mass.R.Civ.P. 55(b)(2), for entry of default judgment as to defendants Jesse J. Clark ("Clark") and SureShot Portraits LLC("SureShot") (collectively, "Default Defendants") due to their failure to answer the complaint or otherwise defend against the Commonwealth's action. The Court entered default against Clark and SureShot on March 11, 2013. After consideration of the Commonwealth's Motion for Default Judgment and accompanying affidavits, and the Complaint and other evidence and materials before the Court including any opposition pleadings and argument, the Court makes the following Findings and Orders:

JURISDICTIONAL FINDINGS

1. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4 and G.L. c. 12, § 10.
2. Personal jurisdiction over Default Defendants is proper pursuant to G.L. c. 212, § 4.
3. Venue is proper in Suffolk County pursuant to G.L. c. 93A, § 4 and G. L. c. 223, § 5.
4. Default Defendants transacted business in the Commonwealth by operating a videography business in the Commonwealth of Massachusetts that solicited consumers, including Massachusetts consumers, to purchase videography services from the Default Defendants.

FINDINGS IN SUPPORT OF DEFAULT JUDGMENT

5. The Commonwealth filed its complaint in this action on January 7, 2013.
6. Default Defendants were properly served on January 10, 2013.
7. Default Defendants failed to timely file an answer to the complaint, or otherwise defend against the complaint. Default was properly entered, pursuant to Mass.R.Civ.P. 55(a), on March 11, 2013.
8. Through its complaint, motion for default judgment, and affidavits, the Commonwealth presented evidence to support its calculation of damages in this action.
9. Accordingly, entry of a final judgment by default against Default Defendant is appropriate, and is hereby ordered.

FINDINGS ON THE MERITS

10. Default Defendants operated a videography business in the Commonwealth of Massachusetts.

11. Default Defendants solicited and received consumer deposits for the purchase of videography products and services.

12. Default Defendants failed to provide the videography products and services, or refunds, to 159 consumers, who gave deposits totaling \$136,230.63 to Default Defendants for goods and services that were not provided in accordance with the terms of the sales contracts.

13. Default Defendants changed the name of their videography business and used aliases for Jesse J. Clark in an effort to deceive the public. The videography business operated under the names SureShot Videography; In Focus Studios; Magnolia Films, LLC; and Wedding Avenue. Clark used the aliases John Francis and Michael Collins.

14. Through this conduct, Default Defendants committed the following willful and knowing violations of the Massachusetts Consumer Protection Act, G.L. c. 93A, 2:

a. Inducing consumers to hire Default Defendants' videography business and make payments based on false statements concerning the videography business's ability and intent to provide services and products within promised timeframes;

b. Failing to provide promised services and products to consumers;

c. Failing to provide refunds to consumers; and

d. Engaging in further deceptions to mislead or confuse consumers as to the individual or entity with whom the consumer contracted by operating under new or false names for Clark and Default Defendants' videography business.

ORDER FOR JUDGMENT

Wherefore, this Court grants the Commonwealth's demand for relief and it is ordered and adjudged that:

15. Judgment is entered under Count I of the Complaint in favor of the Commonwealth and against Defendants Jesse J. Clark and SureShot Portraits, LLC.

16. Defendants Jesse J. Clark and SureShot Portraits, LLC, and their officers, agents, servants, employees, attorneys, successors and assigns, and all other persons and entities acting in active concert or participation with them, directly or indirectly, through any corporation, trust or other device, who receive actual notice of this judgment, are permanently enjoined from:

- a. Soliciting or accepting consumer deposits in the Commonwealth of Massachusetts for any product or service (including any internet solicitation viewable by Massachusetts consumers);
- b. Offering for sale or advertising videography services in the Commonwealth of Massachusetts (including any internet offer viewable by Massachusetts consumers);
- c. Forming a business or organization, alias identity or "doing business as" (d/b/a) identity as a method of avoiding the terms and conditions of this judgment and order.

17. Any legal right or proprietary interest Clark (individually, as a d/b/a, or under alias) or SureShot (as a d/b/a, or under alias) may have in any footage created for the consumers of their videography business is null and void.

18. Within ten (10) days of entry of this judgment, Jesse J. Clark shall surrender to the Office of the Attorney General any additional video footage of any kind, edited or unedited,

created by, for, or on behalf of the Default Defendants for a consumer of their videography business.

19. Jesse J. Clark shall produce a copy of this judgment to all officers, agents, servants, employees, attorneys, successors and assigns, and all other persons and entities acting in active concert or participation with him, directly or indirectly, through any corporation, trust or other device, in any activity relating to the offer or sale of any good or service in the Commonwealth of Massachusetts.

20. SureShot Portraits, LLC shall be dissolved, forthwith.

21. Pursuant to G.L. c. 93A, § 4, the Commonwealth is awarded and Defendants Jesse J. Clark and SureShot Portraits, LLC, jointly and severally, are ordered to pay restitution in the amount of \$136,230.63.

22. Pursuant to G.L. c. 93A, § 4, the Commonwealth is awarded and Defendants Jesse J. Clark and SureShot Portraits, LLC, jointly and severally, are ordered to pay civil penalties in the amount of \$343,000 for violations of G.L. c. 93A, § 2 found against them.

23. Pursuant to G.L. c. 93A, § 4, the Commonwealth is awarded and Defendants Jesse J. Clark and SureShot Portraits, LLC, jointly and severally, are ordered to pay the costs of investigating and bringing this action, including attorneys' fees, in the sum of \$27,000.

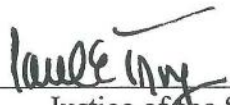
24. There is no just reason for delay and the execution of this Final Judgment by Default constitutes an entry of judgment, pursuant to Mass. R. Civ. P. 54(b).

25. The Superior Court shall retain jurisdiction for purposes of enforcing the provisions of this Final Judgment by Default.

26. Any violation of this Final Judgment by Default shall be punishable under the provisions of G.L. c. 93A or by civil or criminal contempt proceedings, or as otherwise provided by law.

27. Nothing in this Final Judgment by Default shall relieve Jesse J. Clark or SureShot Portraits, LLC of their duty to comply with any federal or state laws or regulations.

At Boston, Massachusetts, this 11th day of June, 2013.



Justice of the Superior Court

NOTICE

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 2013-0047A

5-21

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

JESSE J. CLARK; VERONICA A. CLARK; KEITH
W. MORIN; and SURESHOT PORTRAITS, LLC,

Defendants,

COUNTRY BANK FOR SAVINGS,

Trustee-Defendant.

*NOTICE
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SUFFOLK COUNTY

**MOTION FOR ASSESSMENT OF DAMAGES
AND FINAL JUDGMENT BY DEFAULT**

Pursuant to Mass. R. Civ. P. 55(b)(2) and this Court's March 11, 2013 Entry of Default, Plaintiff, the Commonwealth of Massachusetts (the "Commonwealth"), by and through the Office of Attorney General Martha Coakley, hereby requests that the Court make findings, assess damages and enter final judgment by default as to defendants Jesse J. Clark and SureShot Portraits, LLC (the "Default Defendants"). The Commonwealth's Proposed Findings and Final Judgment by Default as to Jesse J. Clark and SureShot Portraits, LLC ("Proposed Findings and Judgment") is submitted herewith. In support of the instant motion, the Commonwealth relies upon its well-plead Complaint, together with the Memorandum in Support and affidavits submitted herewith. The Commonwealth further states the following:

*6/11/13 Motion allowed.
T.M.J.*

1. In its Complaint, the Commonwealth alleged Default Defendants violated G.L. c. 93A, § 2, by failing to provide videography products and services that their customers paid for,

failing to provide refunds, and continuing their deception by continuing to operate under new or false names.

2. Default Defendants failed to file an answer, or otherwise defend against this action.

3. None of the Defaulted Defendants are infants, incompetent persons, or persons in military service as defined 50 U.S.C. App. §§ 501 *et seq.*

4. The Clerk of the Court entered Default, as to Default Defendants, on March 11, 2013.

5. The well-pleaded facts of the Commonwealth's Complaint, together with the affidavits submitted herewith (described fully in the contemporaneously filed Memorandum in Support), amply support entry of the Proposed Findings and Judgment submitted herewith.

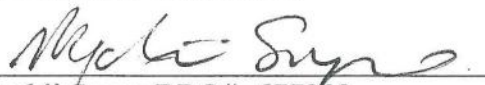
WHEREFORE, pursuant to Mass. R. Civ. P. 55(b)(2) and G.L. c. 93A, § 4, the Commonwealth of Massachusetts requests that the Court allow the within Motion and enter the Proposed Findings and Judgment in favor of the Commonwealth.

Respectfully Submitted,

COMMONWEALTH OF
MASSACHUSETTS

MARTHA COAKLEY
ATTORNEY GENERAL

By:


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Dated: May 10, 2013