

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)**

CASE NO. 09-80477-CIV-HURLEY/HOPKINS
(Ancillary Proceeding to U.S.D.C. Case No. 08-81565-CIV-HURLEY/HOPKINS)

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff,

v.

MARIO THEODULE, an individual,
SMART INVESTMENT MANAGEMENT
SERVICES, LLC, a Florida limited liability
company, GOT SWAGG, INC., a Florida
corporation, DA BEAT HOUSE, INC., a
Florida corporation, and CEO of
FIVE – 5 BUSINESS SOLUTIONS, INC.,
a Texas corporation,

Defendants.

**MOTION FOR CLERK’S DEFAULT AGAINST DEFENDANT
SMART INVESTMENT MANAGEMENT SERVICES, LLC**

JONATHAN E. PERLMAN, Esq., as court appointed Receiver of Creative Capital Consortium, LLC, et al., (hereinafter the “Plaintiff”), by and through his undersigned counsel, hereby files this Motion for Entry of Clerk’s Default against Defendant, SMART INVESTMENT MANAGEMENT SERVICES, LLC (“Defendant”) and states in support thereof as follows:

1. Plaintiff caused Defendant to be duly served with the Summons and Complaint in this matter on November 30, 2009.

2. Defendant has failed to serve any paper on the undersigned or file any paper or appearance as required by law.

3. Plaintiff respectfully submits that he is entitled to the entry of a Clerk's default against Defendant pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

4. Plaintiff has served a copy of this Motion upon the Defendant via United States Mail.

WHEREFORE, Plaintiff respectfully requests the Clerk of this Court to enter a default against Defendant and for such other and further relief as the court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on February 11, 2010, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF and is also being served on Defendant, SMART INVESTMENT MANAGEMENT SERVICES, LLC c/o Registered Agent Kathryn Parker, 3217 Park Place Court, Melbourne, FL 32934, via regular and Certified U.S. Mail.

/s/ David P. Lemoie
David P. Lemoie, Esq.