

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Case No.: 2:12-cv-06333-KM-MCA

JAMES BURT, an individual,

Plaintiff,

v.

KEY TRADING LLC, a Delaware limited liability company;
RAFAEL DENOYO, an individual;
DAVID SULLIVAN, an individual;
PETER LARKIN, an individual;
CHRISTINE DENOYO, an individual;
ALYSSA COHEN, an individual;
and CATHERINE LARKIN, an individual.

Defendants.

**FINAL JUDGMENT FOR PLAINTIFF JAMES BURT,
AGAINST DEFENDANTS, KEY TRADING LLC,
RAFAEL DENOYO, DAVID SULLIVAN, AND PETER LARKIN**

THIS MATTER was brought before the Court on May 6, 2014 upon the motion filed by Plaintiff JAMES BURT, an individual, for *inter alia* entry of a final judgment against Defendants KEY TRADING LLC, a Delaware limited liability company; RAFAEL DENOYO, an individual; DAVID SULLIVAN, an individual (KEY TRADING, Mr. deNoyo, and Mr. Sullivan collectively deemed "the KEY TRADING DEFENDANTS"), and PETER LARKIN, an individual, jointly and severally [DE 100]. The Court has considered the moving papers and has been otherwise duly advised in the circumstances surrounding the motion; and states as follows:

WHEREFORE, in October 2012, Plaintiff filed the instant lawsuit for breach of contract and for damages. [Docket Entry No. ("DE") 1].

WHEREFORE, on October 18, 2013, after approximately a year of protracted litigation, several of the parties (Plaintiff and Defendants KEY TRADING LLC, RAFAEL DENOYO, DAVID SULLIVAN [KEY TRADING, Mr. deNoyo, and Mr. Sullivan collectively deemed "the KEY TRADING DEFENDANTS"], and PETER LARKIN) appeared before the Court at a Settlement Conference and informed the Court that they had negotiated a provisional settlement that would resolve all claims/defenses as to all parties in the case [see, October 23, 2013 Court Docket "Minute Entry"]. The terms of the provisional settlement were presented in open court; and Plaintiff, the KEY TRADING DEFENDANTS, and Mr. Larkin subsequently entered into a written agreement memorializing the terms of the parties' settlement (the "Settlement Agreement"). A true and complete copy of the Settlement Agreement is attached as Exhibit "A".

WHEREFORE, Section 7 ("Default") of the Settlement Agreement provides the following in pertinent part:

*In the event that the Key Trading Defendants and Larkin default hereunder and fail to cure said default as set forth below, it is agreed that the entire unpaid portion of the Total Settlement Amount shall be accelerated and immediately due and payable and that Burt shall be entitled to entry by the Court of a final judgment, as well as prejudgment interest at the prevailing rate and an award of reasonable attorneys' fees and costs relative to the enforcement of the terms of this Settlement Agreement, against the Key Trading Defendants and Larkin, jointly and severally, consented to, confessed to, and not to be opposed by the Key Trading Defendants and Larkin. * * * Should the Key Trading Defendants and Larkin fail to cure the default within the period referenced above, then the entire unpaid portion of the Total Settlement Amount shall be accelerated and immediately due and payable and, upon Burt's filing for relief from the Court, Burt shall be entitled to the entry of a final judgment/award against the Key Trading Defendants and Larkin, jointly and severally, in the Total Settlement Amount, plus prejudgment interest at the prevailing rate and the reasonable fees and costs incurred in enforcing this Settlement Agreement, less any money received by Burt pursuant to this Settlement Agreement.*

(Emphasis added).

WHEREFORE, subsequent to the parties' execution of the Settlement Agreement and their recitation on the court record of the negotiated terms of the settlement, the KEY TRADING DEFENDANTS and Mr. Larkin defaulted on their obligations under the Settlement Agreement by failing to make any of the payments required of them under the Settlement Agreement. Despite having been provided due notice and a fair opportunity to cure, the KEY TRADING DEFENDANTS and Mr. Larkin never cured their default.

WHEREFORE, on May 6, 2014, counsel for Plaintiff, the KEY TRADING DEFENDANTS, and Mr. Larkin appeared before the Court at a Court-ordered telephone conference to discuss, *inter alia*, Plaintiff's application for entry of a Final Judgment against the KEY TRADING DEFENDANTS and Mr. Larkin [DE 113, 104].

WHEREFORE, at the May 6, 2014 hearing, this Court ordered, *inter alia*, that a Final Judgment be entered against the KEY TRADING DEFENDANTS and Mr. Larkin in accordance with the terms of Section 7 ("Default") of the Settlement Agreement, to wit:

I don't think there's any dispute here that there has been a default by the Key Trading defendants and Larkin on the payment obligations that were set forth in that agreement.

And 7(C) [of the Settlement Agreement] talks about -- let's see, hold on -- what happens in the event of default. And in event of default by Key Trading and Larkin, it is agreed that the entire unpaid portion of the settlement shall be accelerated and -- due and payable, and that Burt shall be entitled to entry of the Court by final judgment as well as prejudgment interest at the prevailing rate and award of attorney -- reasonable attorney's fees and costs.²

* * *

¹ See, Transcript of May 6, 2014 hearing at Page 4: Lines 10-13 [DE 111] (emphasis added).

² *Id.* at Page 5: Lines 7-14 (emphasis added).

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WHEREFORE, because no payments were made by the **KEY TRADING DEFENDANTS** and Mr. Larkin, the Final Judgment to be entered against them, jointly and severally, will be in the amount of One Million Eight Hundred Thousand Dollars (\$1,800,000.00) plus prejudgment interest at the prevailing rate and the reasonable fees and costs incurred by BURT in enforcing the Settlement Agreement.

IT IS ORDERED AND ADJUDGED as follows:

- (1) Plaintiff's address is c/o Silver Law Group, 11780 West Sample Road, Coral Springs, FL 33065.
- (2) The last known address for **KEY TRADING LLC** is 32 Broadway, Suite 1404, New York, NY 10004.
- (3) The last known address for **RAFAEL DENOYO** is 110 21st St. NE, Salem, OR 97301.
- (4) The last known address for **DAVID SULLIVAN** is 75 Beaumont Drive, Melville, NY 11747-3431.
- (5) The last known address for **PETER LARKIN** is 6 Grandview Road, Central Valley, NY 10917.
- (6) Plaintiff **JAMES BURT**, an individual, shall have and recover jointly and severally from Defendants **KEY TRADING LLC**, a Delaware limited liability company; **RAFAEL DENOYO**, an individual; **DAVID SULLIVAN**, an individual; **PETER LARKIN**, an individual, the principal sum of **One Million Eight Hundred Thousand Dollars (\$1,800,000.00)** as compensatory damages.
- (7) Pursuant to N.J. Ct. R. 4:42-11, prejudgment interest is awarded, running from September 7, 2010 to the date of entry of Final Judgment, *at the legal rate.* in the amount of _____.

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(8) Plaintiff's counsel shall have twenty (20) days from the date of entry of Final Judgment to provide the Court, in accordance with Fed.R.Civ.P. 54 and Local Civil Rule 54.1, a detailed affidavit with an accounting of its reasonable attorneys' fees and taxable costs, as well as any other exhibits counsel feels are necessary in support of the fee petition, to calculate the total fees and costs due and payable to Plaintiff JAMES BURT by Defendants KEY TRADING LLC, a Delaware limited liability company; RAFAEL BENOYO, an individual; DAVID SULLIVAN, an individual; PETER LARKIN, an individual, jointly and severally.

(9) Post-judgment interest shall accrue at the applicable rate from the date of entry of this judgment in final form until such judgment is satisfied.

(10) To be clear, this judgment does not affect Plaintiff's claims against the other defendants to this lawsuit (CHRISTINE DEBUKO, an individual, ALYSSA COHEN, an individual; and CATHERINE LARKIN, an individual).

(11) All writs necessary for the enforcement of this judgment shall be granted and issued.

DONE AND ORDERED in Chambers in Newark, New Jersey, this 16th day of

June 2014.


HONORABLE KEVIN MCNULTY
United States District Judge

cc: all parties and counsel of record