

United States District Court

District of Massachusetts

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Case Name: Securities and Exchange Commission v. Lydia Capital, LLC et al

Case Number: 1:07-cv-10712-RGS

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Document Number: 286

Docket Text:

USCA Judgment as to[228] Notice of Appeal, filed by Glenn Manterfield.

**Judgment of the district court AFFIRMED. Judgment issued in the USCA 5/6/2010
(Ramos, Jeanette)**

1:07-cv-10712-RGS Notice has been electronically mailed to:

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United States Court of Appeals For the First Circuit

No. 09-1767

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, Appellee,

v.

GLENN MANTERFIELD,

Defendant, Appellant,

LYDIA CAPITAL, LLC., ET AL.,

Defendants.

Before

Lynch, Chief Judge,
Lipez and Howard, Circuit Judges.

JUDGMENT

Entered: May 6, 2010

Defendant Glenn Manterfield appeals from the default judgment entered against him based on his failure to appear for his deposition. Defendant also appeals from the denial of Fed. R. Civ. P. 60(b) relief. As a preliminary matter, we accept the district court's certification of a final judgment against defendant pursuant to Fed. R. Civ. P. 54(b). Given that the case against defendant is wholly separate from the receivership and proceedings involving the remaining company defendant, we agree that there was no just reason for delay. See Britton v. Maloney, 196 F.3d 24, 27 n.2 (1st Cir. 1999).

We turn now to the merits of this appeal. After considering the parties' submissions and the record, we conclude that the district court acted within its discretion in entering a default judgment against defendant and subsequently denying Rule 60(b) relief. Defendant misrepresented to the district court that he would appear for his deposition; the reason defendant did not attend his deposition was because he decided it was optional and could not perceive any advantage from it; and, even after the district court ordered an entry of default and explained to defendant, in two separate orders, that he was obligated to attend his deposition under the discovery rules, defendant still insisted that he did not have to comply, and he maintains that erroneous position on appeal. In light of these circumstances, the district court did not abuse its discretion in entering a default judgment against defendant. See Diaz-Fonseca v. Puerto Rico, 451 F.3d 13, 25 (1st Cir. 2006) (noting that sanctioned defendant "bears a heavy burden of demonstrating that the trial judge was clearly not justified in entering an order of default under Rule 37") (internal brackets, internal quotation marks, and citation omitted). Further, the district court did not abuse its discretion in denying Rule 60(b) relief because defendant's motion failed to satisfy the requisite grounds. See Fisher v. Kadant, Inc., 589 F.3d 505, 512-14 (1st Cir. 2009). We have considered each of defendant's arguments and find them to be without merit.

The judgment of the district court is affirmed. See 1st Cir. R. 27.0(c).

By the Court:

/s/ Margaret Carter, Clerk.

cc:

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