

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

JUSTIN SUN, *et al.*,

Defendants.

Case No. 1:23-cv-2433 (ER)

**DECLARATION IN SUPPORT OF APPLICATION FOR CLERK'S
CERTIFICATE OF DEFAULT AS TO DEFENDANT DEANDRE CORTEZ WAY**

I, Adam B. Gottlieb, hereby declare:

1. I am an attorney licensed to practice law in the State of New York, and I am admitted to appear before this Court. I am a Senior Counsel in the Division of Enforcement at the Securities and Exchange Commission ("SEC") and an attorney of record for the Plaintiff in this case. I submit this declaration in support of the SEC's Application for a Clerk's Certificate of Default as to Defendant DeAndre Cortez Way.

2. I make this declaration based upon personal knowledge, except where otherwise indicated.

3. The above-captioned action was commenced on March 22, 2023, with the filing of the SEC's Complaint. *See* Complaint, ECF No. 1.

4. Defendant DeAndre Cortez Way ("Way") was served with the Summons and Complaint pursuant to Fed. R. Civ. Proc. 4(e)(1), which specifies in relevant part that service may be made by "following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located."

5. Specifically, after efforts to personally serve on Way the Summons and Complaint were unsuccessful, *see* Return of Service, ECF No. 16, service was made in accordance with N.Y. C.P.L.R. 308.4 by “affixing the [Summons and Complaint] to the door of . . . the . . . dwelling place or usual place of abode within the state of the person to be served and by . . . mailing the [Summons and Complaint] to such person at his or her last known residence.”

6. Upon information and belief, Way resides at 3356 Adamsville Avenue, Calabasas, CA 91302.

7. On April 18, 2023, copies of the Summons and Complaint were posted to the front door of the residence at 3356 Adamsville Ave, Calabasas, CA 91302. *See* Return of Service, ECF No. 16.

8. On April 19, 2023, copies of the Summons and Complaint were mailed to Way at the aforementioned address. *See* Return of Service, ECF No. 16.

9. Proof of service was filed with the Clerk of this Court on April 20, 2023. Return of Service, ECF No. 16. Service on Way was complete, at the latest, on April 30, 2023, 10 days after this filing. *See* N.Y. C.P.L.R. 308.4 (service is complete 10 days after filing proof of service pursuant to this provision).

10. Way’s responsive pleading was due, at the latest, by May 21, 2023, twenty-one days after the date on which service was “complete” pursuant to N.Y. C.P.L.R. 308.4.

11. On or about May 2, 2023, counsel of record for the SEC began preliminary settlement discussions with Way’s counsel, who has not entered an appearance in this action. When no resolution had been reached on May 18, 2023, counsel for the SEC informed Way’s counsel that the SEC would not seek a Clerk’s Certificate of Default until after May 25, 2023, to allow Way sufficient time to file a responsive pleading.

12. On May 25, 2023, in response to a request from Way's counsel, counsel of record for the SEC sent by email to Way's counsel a copy of the executed proof of service filed with this Court as ECF No. 16.

13. As of August 17, 2023, the docket in this case indicates that Way has not filed a responsive pleading.

14. Way is not a minor, incompetent person, or member of the United States military as appears from the facts in this litigation and the SEC's review of an electronic military service database.

15. A Request for a Clerk's Certificate of Default is attached hereto.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/s/ Adam B. Gottlieb

Adam B. Gottlieb

Attorney for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

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Dated: August 17, 2023