

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-62603-CIV-DIMITROULEAS

GRISEL ALONSO, as Receiver for Elm
Tree Investment Advisors, LLC, Elm Tree
Investment Fund, LP, Elm Tree 'e'Conomy
Fund, LP, and Elm Tree Motion
Opportunity, LP,

Plaintiff,

v.

JAMES BENVENUTO, an individual, NGU
INVESTORS, LLC, a Florida limited liability
Company; JEAN BENVENUTO, an individual,
et. al.,

Defendants.

ORDER TO SHOW CAUSE FOR LACK OF PROSECUTION

THIS CAUSE is before the Court *sua sponte*.

A court has the inherent power to *sua sponte* dismiss a case for lack of prosecution. *See Link v. Wabash Railroad Co.*, 370 U.S. 626, 630 (1962). Pursuant to Rule 41(b), a district court may dismiss a complaint for failure to prosecute or failure to comply with a court order or the federal rules. Fed. R. Civ. P. 41(b).

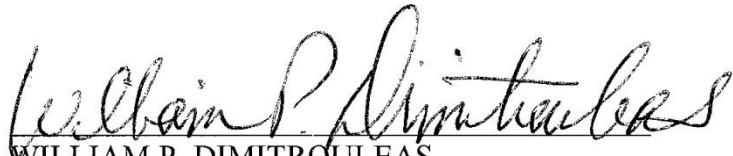
Defendant Ted Greenwald's responsive pleading was due on April 25, 2017. *See* [DE 68] (Order Denying Motion to Dismiss entered on April 11, 2017); Fed. R. Civ. Pro. 12(a)(4)(A) (“[I]f the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action.”). However, as of the date of this Order, Defendant has not responded.

If a defendant fails to respond to a complaint, the plaintiff may move for a Clerk's Entry of Default. *See* Fed. R. Civ. P. 55(a); [DE 14]. In this case, although Defendant has failed to timely respond, Plaintiff has not yet moved for a Clerk's Entry of Default.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff, on or before **June 7, 2017**, shall either move for Clerk's Entry of Default or show cause why this action should not be dismissed as to Defendant Ted Greenwald for a lack of prosecution; and
2. A failure to comply with this Order will result in immediate dismissal of this action as to Ted Greenwald without prejudice.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,
this 31st day of May, 2017.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:
Counsel of record