

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

THOMAS L. TAYLOR III, solely in his	§	
capacity as Court-appointed Receiver for	§	
Robert A. Helms, <i>et al.</i> ,	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 15-cv-627-LY
	§	
MICHAEL SAMOUCÉ, MARK KYLE and	§	
APPLIED QUANTITATIVE SOLUTIONS,	§	
LLC,	§	
Defendants.	§	

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**RECEIVER’S REQUEST FOR ENTRY OF DEFAULT AS TO  
DEFENDANT MARK KYLE**

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Plaintiff Thomas L. Taylor III (the “Receiver”), solely in his capacity as Court-appointed Receiver in the civil action styled *SEC v. Helms, et al.*, Civil Action No. 1:13-cv-1036-ML (W.D. Tex. 2013) (the “Enforcement Action”), respectfully requests pursuant to FED. R. CIV. P. 55 that the Clerk of the Court enter the default of Defendant Mark Kyle (“Defendant”), for his failure to plead or otherwise defend in this case. In support of this request, the Receiver would show the following:

1. As set forth in the attached Declaration of Andrew M. Goforth (**Exhibit A**), the Defendant was served with the Complaint and Summons in this case on August 12, 2015 pursuant to FED. R. CIV. P. 4(e)(2)(B). Goforth Decl. ¶3; Clerk’s Docket No. 10. A copy of the Summons and of the Complaint were left at 2102 Alta Vista Ave., Austin, Texas with Michael Samoucé (*see* Clerk’s Docket No. 10), a person of suitable age and discretion who resides there. *See* Clerk’s Docket No. 9 at p. 9 (signature block). The executed service of the Summons and Complaint upon Defendant was filed with the Court on August 14, 2015 (Clerk’s Docket No. 6),

and an amended affidavit of service was filed with the Court on September 21, 2015. Clerk's Docket No. 10.

2. Defendant has not filed an answer to the Complaint or otherwise defended in this civil action. Goforth Decl. ¶4.

3. Defendant is not an infant, nor incompetent. *Id.* at ¶5. Defendant is not eligible for relief under the Servicemembers Civil Relief Act of 2003 [50 U.S.C. Appendix, § 501 *et seq.*].

*Id.*; **Exhibit B.**

WHEREFORE, premises considered, the Receiver requests that the Clerk of this Court enter default against Defendant Mark Kyle.

Dated: September 22, 2015

Respectfully submitted,

THE TAYLOR LAW OFFICES, P.C.

By: /s/ Andrew M. Goforth

Andrew M. Goforth  
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COUNSEL FOR PLAINTIFF  
THOMAS L. TAYLOR III, RECEIVER

**CERTIFICATE OF SERVICE**

On September 22, 2015, I served the foregoing document on all parties as listed below by U.S. Mail, Return Receipt Requested, pursuant to Federal Rule of Civil Procedure 5(b)(2)(C).

***Via U.S. Mail, Return Receipt Requested:***

Michael Samouce

Mark Kyle

Applied Quantitative Solutions, LLC

2102 Alta Vista Avenue

Austin, TX 78704

/s/ Andrew M. Goforth

Andrew M. Goforth

# **Exhibit A**

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capacity as Court-appointed Receiver for	§	
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Plaintiff,	§	
	§	
v.	§	Civil Action No. 15-cv-627-LY
	§	
MICHAEL SAMOUCÉ, MARK KYLE and	§	
APPLIED QUANTITATIVE SOLUTIONS,	§	
LLC,	§	
Defendants.	§	

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**DECLARATION OF ANDREW M. GOFORTH IN SUPPORT OF RECEIVER’S  
REQUEST FOR ENTRY OF DEFAULT AS TO DEFENDANT MARK KYLE**

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I, Andrew M. Goforth, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. §1746, that the following is true and correct, that this declaration is made on my personal knowledge, and that I am competent to testify as to the matters stated herein:

1. I am the attorney of record for Thomas L. Taylor III (“Receiver”), Plaintiff in the above-captioned civil action, and I submit this declaration in support of the Receiver’s Request for Clerk’s Entry of Default as to Defendant Mark Kyle (“Defendant”).

2. The Receiver filed a Complaint against Defendant on July 27, 2015 (Clerk’s Docket No. 1), seeking a judgment against Defendant for damages caused by Defendant’s receipt of fraudulent transfers from, and Defendant’s aiding, abetting and participation in, and conspiracy in furtherance of, a fraudulent Ponzi scheme previously adjudicated by this Court in the civil action styled *SEC v. Helms, et al.*, Civil Action No. 1:13-cv-1036-ML (W.D. Tex. 2013). *See SEC v. Helms*, 2015 U.S. Dist. LEXIS 29149, at \*19 – 22 (W.D. Tex. Mar. 10, 2015); *SEC v. Helms*, 2015 U.S. Dist. LEXIS 110758, at \*39 – 42 (W.D. Tex. Aug. 21, 2015).

3. Defendant was served with the Summons and Complaint on August 12, 2015 pursuant to FED. R. CIV. P. 4(e)(2)(B)<sup>1</sup>. Clerk's Docket No. 10. The executed service of the Summons and Complaint upon Defendant was filed with the Court on August 14, 2015 (Clerk's Docket No. 6), and an amended affidavit of service was filed with the Court on September 21, 2015. Clerk's Docket No. 10.

4. Defendant has not filed an answer to the Complaint or otherwise defended in this civil action.

5. Defendant is not an infant, nor incompetent. Defendant is not eligible for relief under the Servicemembers Civil Relief Act of 2003 [50 U.S.C. Appendix, §501 *et seq.*]. *See Exhibit B.*

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

Executed on September 22, 2015.

/s/ Andrew M. Goforth  
Andrew M. Goforth

Counsel for Plaintiff  
Receiver Thomas L. Taylor III

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<sup>1</sup> "...[A]n individual ... may be served ... by: ... leaving a copy of [the summons and the complaint] at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there." FED. R. CIV. P. 4(e)(2)(B). A copy of the Summons and of the Complaint were left at 2102 Alta Vista Ave., Austin, Texas with Michael Samouce (*see* Clerk's Docket No. 10), a person of suitable age and discretion who resides there. *See* Clerk's Docket No. 9 at p. 9 (signature block).

# **Exhibit B**



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

Last Name: KYLE

First Name: MARK

Middle Name:

Active Duty Status As Of: Sep-22-2015

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavelly-Dixon, Director  
 Department of Defense - Manpower Data Center  
 4800 Mark Center Drive, Suite 04E25  
 Arlington, VA 22350



The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: [https://kb.defense.gov/app/answers/detail/a\\_id/344/~/locating-service-members-or-getting-a-mailing-address](https://kb.defense.gov/app/answers/detail/a_id/344/~/locating-service-members-or-getting-a-mailing-address). If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: PE326D31T10DL40

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LLC, §  
Defendants. §

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**CLERK’S ENTRY OF DEFAULT AS TO DEFENDANT MARK KYLE**

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According to the official Court file in the above-captioned action, the Complaint of the Plaintiff Receiver Thomas L. Taylor III (“Receiver”) was filed on July 27, 2015, in the office of the United States District Clerk for the Western District of Texas, Austin Division (“Clerk”), against Defendant Mark Kyle (“Defendant”) and others, Civil Action 1:15-cv-00627-LY.

Service of the Complaint was made upon Defendant on August 12, 2015 pursuant to FED. R. Civ. P. 4(e)(2)(B). Clerk’s Docket No. 10. The executed service of the Summons and Complaint upon Defendant was filed with the Court on August 14, 2015 (Clerk’s Docket No. 6), and an amended affidavit of service was filed with the Court on September 21, 2015. Clerk’s Docket No. 10.

As of the date of this entry, no answer has been filed with the Clerk on behalf of Defendant nor has Defendant otherwise defended herein.

WHEREFORE the default of Defendant Mark Kyle is hereby entered on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015.

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Clerk, United States District Court  
Western District of Texas