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**FILED**  
5/24/12  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ am/pm  
By: Law  
CLERK, FSM SUPREME COURT  
KOSRAE  
TRIAL DIVISION

**SUPREME COURT  
FEDERATED STATES OF MICRONESIA  
TRIAL DIVISION - STATE OF KOSRAE**

FSM Development Bank, ) CIVIL ACTION NO. 2012-2002  
)  
Plaintiff, )  
v. ) PLAINTIFF'S MOTION FOR ENTRY  
) OF DEFAULT AND DEFAULT  
) JUDGMENT AGAINST DEFENDANT  
KOSRAE SERVICE STAR, INC., ) BRIAN ROGERS;  
RAIMOND TULENSRU, AND BRIAN ) AFFIDAVIT OF NORA E SIGRAH;  
ROGERS, ) AFFIDAVIT OF ANDRIET TILFAS;  
) EXHIBITS "A" TO "D"  
Defendants. )  
\_\_\_\_\_ )

Plaintiff, FSM Development Bank ("FSMDB") hereby moves for entry of default and for entry of default judgment under FSM Civ. R. 55 against Defendant Brian Rogers. In support of this motion, Plaintiff submits the memorandum of points and authorities below, the attached affidavits and exhibits.

**MEMORANDUM OF POINTS AND AUTHORITIES**

This is an action for collection of a promissory note executed by officers of Defendant Kosrae Service Star Inc., attached as Exhibit "A" to the complaint and to this Motion. Exhibit "A", the promissory note, has a balance of \$ 366,063.97, as of April 10, 2012, inclusive of principal, accrued interest

and penalty fees. Affidavit of Sigrah, Exhibits "A" and "B", and First Cause of Action of Complaint. Entry of default judgments against Defendants Kosrae Service Star Inc and Raimond Tulensru were granted by Order entered May 2, 2012. FSMDB filed its proposed judgment form on May 14, 2012.

This is also an action for collection of a guaranty executed by individual Defendant Brian Rogers. See, Fourth Cause of Action of Complaint. The guaranty executed by Defendant Brian Rogers is attached as Exhibit "F" to the complaint and as Exhibit "C" to this motion. Through the guaranty, Defendant Brian Rogers provided an absolute and continuing guaranty of all payment obligations of debtor Defendant Kosrae Service Star Inc. to Plaintiff FSMDB. As of April 10, 2012, the payment obligations of Kosare Service Star Inc. include the balance of the outstanding the promissory note \$ 366,063.97, as of April 10, 2012, costs of service, attorney's fees and collection expenses in an amount to be determined by the Court. Affidavit of Sigrah, and Exhibits "A" to "C".

This Motion seeks entry of default and default judgment against Defendant Brian Rogers on the Fourth Cause of Action of the Complaint.

Jurisdiction of the subject matter of this action is based on Article XI, Section 6(a) of the Constitution of the Federated

States of Micronesia, this being a suit involving an agency and/or instrumentality of the national government.

This action was commenced with the filing of summonses and a complaint on March 7, 2012. A copy of the summons, complaint and exhibits was served upon Defendant Brian Rogers at his place of business in Tafunsak, Kosrae State. Defendant Brian Rogers is the owner of HILLA's Moneygram business, pursuant to Kosrae State Foreign Investment Permit No. KM004-2008(A) which remains currently active and valid. The Moneygram business is located at the premises of Brian and Hilla Rogers at Wasrwasr section, Tafunsak Municipality, Kosrae State. Affidavit of Tilfas and Exhibit "D". Proof of service upon Defendant Brian Rogers was filed on March 15, 2012 through the affidavit of service.

To date, Defendant Brian Rogers has not filed or served an answer or other response. Pursuant to FSM Civ. R. 55(a) and 55(b)(1), FSMDB now seeks entry of default and a judgment by default on its complaint against Defendant Brian Rogers on the Fourth Cause of Action.

Plaintiff seeks entry of judgment against Defendant Brian Rogers on the Fourth Cause of Action for the following sum certain:


- I. On the promissory note, in the amount of \$ 366,063.97, as of April 10, 2012, inclusive of principal, accrued interest and penalty fees; and

- II. Per diem interest on the note in the amount of \$ 86.81 between April 10, 2012 and the date judgment is entered; and
- III. Costs of the service of the complaint and summons upon Defendants Kosrae Service Star Inc., Raimond Tulensru and Brian Rogers in the amount of \$ 100.00; and
- IV. Interest at the statutory rate of 9% per annum, to begin on the date this judgment is entered, on the judgment amount until it is fully paid.

**WHEREFORE**, Plaintiff requests the entry of default and default judgment against Defendant Brian Rogers for a sum certain to include all amounts payable by Kosrae Service Star Inc. to Plaintiff.

Respectfully submitted:

Date: May 22, 2012

  
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Nora E Sigrah  
Attorney for Plaintiff  
FSM Development Bank