

No. 1-10-1986

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

TAVROS TECHNOLOGY SERVICES, INC.,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County
)	
v.)	
)	
HAMILTON WILLIAMS LLC, d/b/a VELOCITY 4X,)	No. 09 M1 170782
)	
Defendant-Appellant,)	The Honorable
)	Pamela Hill Veal,
v.)	Judge Presiding.
)	
GAIN CAPITAL GROUP, LLC,)	
)	
Defendant-Appellant.)	

JUSTICE STERBA delivered the judgment of the court.
Presiding Justice Lavin and Justice Salone concurred in the judgment.

ORDER

HELD: The circuit court did not abuse its discretion by entering a default judgment against defendant, granting plaintiff's motion to strike defendant's motion to vacate default judgment and finding defendant jointly and severally liable with co-defendant for damages awarded to plaintiff. Defendant has failed to submit a record before this court that supports a meritorious defense and due diligence in defense of its case. In addition, defendant has failed to submit a report of proceedings and, as a result, there is no basis for

1-10-1986

holding that the circuit court abused its discretion.

This appeal arises from a breach of contract action brought by plaintiff, Tavros Technology Services, Inc. (Tavros), against defendants, Hamilton Williams, LLC d/b/a Velocity 4x (Hamilton) and Gain Capital Group, LLC (Gain Capital), for non-payment of information technology services previously rendered.¹ Hamilton appeals the judgment of the circuit court of Cook County, which entered a default judgment with prejudice against Hamilton pursuant to section 2-1301(e) of the Code of Civil Procedure (735 ILCS 5/2-1301(e) (West 2008) (section 2-1301(e))) and granted Tavros' motion to strike Hamilton's motion to vacate default judgment. At issue in this appeal is whether the circuit court abused its discretion by entering a default judgment against Hamilton, granting Tavros' motion to strike Hamilton's motion to vacate default judgment and finding Hamilton jointly and severally liable with Gain Capital for the \$44,067.50 in damages awarded to Tavros. For the following reasons, we affirm the judgment of the circuit court.

I. BACKGROUND

Tavros, an Illinois corporation, is an information technology services company with its principal place of business located in Chicago. Hamilton is a Delaware limited liability company

¹ This appeal initially was consolidated with appeal number 1-10-1797. On April 25, 2011, this court granted the Joint Motion for Voluntary Dismissal of Appeal Number 1-10-1797, filed by Tavros and Gain Capital. Accordingly, only the disposition of appeal number 1-10-1986 remains. Tavros has informed this court that it settled its dispute with Gain Capital and, as such, reference to Gain Capital is limited to issues solely necessary to the disposition of this appeal.

1-10-1986

with its principal place of business located in Chicago. Hamilton operated as a “Forex Dealer Member” and “Introducing Broker” of the National Futures Association during the duration of the contract at issue in this case.

On January 1, 2007, Tavros and Hamilton entered into a “Master Services Agreement” (the agreement), in which Tavros agreed to provide certain consulting and technical services to Hamilton. Tavros agreed to render its services to Hamilton beginning on January 1, 2007 and concluding on August 31, 2008.

The agreement includes a provision for fees and payments wherein Hamilton agreed to pay Tavros pursuant to “an invoice, which must be paid by [Hamilton] within fifteen (15) days of the date of the invoice.” This provision also states that invoices not paid “will incur interest at the rate of 1½ % per month (18% per annum) or at such maximum rate allowed by law,” and that failure to make payments within 30 days of the invoice date “will be deemed a material breach of this Agreement and provide grounds for immediate termination of any and all services by [Tavros] and for immediate termination of this Agreement.”

Section 4.09 of the agreement, entitled, “Attorney Fees and Dispute Resolution,” provides, “[i]f any obligation to compensate [Tavros] arising out of this Agreement is not paid when due and [Tavros] engages an attorney or other service provider to collect that indebtedness, [Hamilton] will be liable to pay [Tavros] its reasonable attorney fees or service provider costs as well as all other costs and expenses incurred with respect to the collection of that indebtedness.”

On August 1, 2008, Tavros received a notice of termination of the agreement from Hamilton, which requested termination of services effective July 31, 2008. Tavros’ president,

1-10-1986

Christopher Laskaris, responded to Hamilton with a confirmation of termination letter, dated August 18, 2008. The correspondence stated, pursuant to the parties' verbal agreement of August 12, 2008, "Tavros will suspend all services for [Hamilton] at the close of business (5pm CST) on Tuesday, August 19, 2008, unless full payment is remitted for services rendered and equipment rental fees incurred during the period January 1, through October 31, 2008." The correspondence also stated that Hamilton's written notice was received by Tavros on August 1, 2008, and per the agreement, "30 days written notice is required to effectively terminate services with our company. Therefore your notice dated and received August 1, 2008, will be effective to terminate services on August 31, 2008."

On August 31, 2009, Tavros filed a verified complaint against Hamilton, alleging breach of contract and unjust enrichment. Tavros sought payment of its services from January 1, 2008 through August 31, 2008, in an amount totaling \$44,067.50. In addition, Tavros sought payment of attorney fees and costs. An affidavit executed by Michael Markarian, former president of Hamilton, was attached to the complaint, and stated that the agreement represented "a true and correct copy of the Agreement I understood to have been in place between [Tavros] and [Hamilton] for the period of time beginning January 1, 2007 and continuing through August 31, 2008." Markarian's affidavit also stated that true and correct copies of the unpaid invoices sent to Hamilton were attached and that, as president, he requested that Hamilton pay Tavros for the invoices, but was informed that the funds would not be released by a fellow Hamilton member. An August 29, 2008 consolidated invoice attached to the complaint showed nonpayment for services rendered from January 2008 through August 2008, totaling \$44,067.50.

1-10-1986

Service initially was attempted on Hamilton, but returned on September 4, 2009, citing no service due to “no contact.” Tavros obtained an alias summons on September 10, 2009 and the circuit court appointed a special process server on October 1, 2009.

The verified complaint and alias summons were served upon Hamilton by special process server on October 15, 2009 by leaving a copy with Hamilton’s registered agent, attorney William D. Anthony. The summons provided that Hamilton was required to file a written appearance and pay the required fee by October 19, 2009.

Tavros moved for the entry of default judgment against Hamilton on October 26, 2009. On November 2, 2009, the circuit court entered an *ex parte* default judgment in favor of Tavros and against Hamilton in an amount totaling \$46,817.68, which included attorney fees and costs.

On December 2, 2009, Anthony filed an appearance on behalf of Hamilton, but did not pay the required fee. In addition, Hamilton filed a form provided by the court, in which it moved to vacate the default judgment. Hamilton provided no substantive argument in support of its motion.

Hamilton’s motion to vacate was scheduled for hearing on December 11, 2009. On that date, the circuit court entered and continued the motion until December 18, 2009. The court order shows that counsel for both Tavros and Hamilton appeared at the hearing. The order states that a “Vincent Acevedo for William Anthony, Esq.” appeared on behalf of Hamilton.

On December 18, 2009, the circuit court again entered and continued Hamilton’s motion to vacate default judgment to January 15, 2010. The court order shows that only Tavros’ counsel appeared for the hearing.

1-10-1986

On January 15, 2010, the circuit court entered an order setting the case for status on April 21, 2010. The court granted Hamilton 28 days, or until February 12, 2010 to answer Tavros' verified complaint. The court also granted Hamilton leave for an additional appearance, but the order does not make clear who appeared on behalf of Hamilton.

In an agreed order, dated February 16, 2010, the circuit court granted Hamilton an additional 28 days, or until March 16, 2010, to answer Tavros' verified complaint and to allow time to discuss settlement. The order shows that counsel for both Tavros and Hamilton appeared at the hearing. The order does not make clear whether Anthony appeared on behalf of Hamilton.

On April 14, 2010, Tavros renewed its motion for default judgment against Hamilton due to Hamilton's failure to answer Tavros' verified complaint. The hearing on Tavros' motion was scheduled to occur on April 21, 2010. An agreed order dated April 21, 2010 shows that Gain Capital's petition to vacate default judgment was entered and continued to May 19, 2010. The order shows that only counsel for Tavros appeared at the April 21, 2010 hearing.

On May 19, 2010, Tavros' renewed motion for default judgment again was entered and continued to May 26, 2010. The court order stated that Gain Capital's petition to vacate default and Tavros' motion were briefed. The order does not make clear whether counsel for Hamilton appeared at this hearing.

On May 26, 2010, the circuit court granted with prejudice Tavros' renewed motion for default judgment against Hamilton. The court also set a June 1, 2010 hearing for prove-up of damages. On the same date, Hamilton moved to strike and dismiss Tavros' complaint. Hamilton asserted that, because it never signed the agreement, Tavros' breach of contract claim was

1-10-1986

unfounded. Hamilton also filed a notice of motion stating that its motion to strike and dismiss Tavros' complaint was served by hand to Tavros' counsel; however, the certificate of service for the notice of motion was unsigned.

Thereafter, pursuant to section 2-1301(e), Hamilton moved to vacate default judgment on May 28, 2010. Hamilton asserted in its motion that it has been diligent in the defense of its case and that it has meritorious defenses to Tavros' action because the contract sought to be enforced was unsigned by Hamilton. In addition, Hamilton sought leave to file a verified answer and counterclaim against Markarian. The proposed verified answer was unsigned.

On June 1, 2010, Tavros moved to strike Hamilton's motion to vacate default judgment. Tavros argued that Hamilton ignored the court's orders to file a response to Tavros' complaint on three prior occasions and that Hamilton set forth no excuse for its failed compliance. Tavros asserted that the lack of diligence established by Hamilton's repeated delays and failure to comply with court orders weighed heavily against vacation of the default judgment. Tavros prayed that the court uphold default judgment in its favor and against Hamilton in the amount specified in its verified complaint (\$44,067.50), plus attorney fees and costs.

Also on June 1, 2010, Tavros filed its notice of petition for attorney fees in anticipation of the prove-up hearing for damages. Tavros claimed that it incurred over \$4,400 in attorney fees as a result of Hamilton's actions. Tavros attached to its petition for attorney fees the affidavit of its counsel, who testified regarding the amount of fees incurred during her representation of Tavros in this case.

Counsel for all parties appeared before the circuit court for the damages prove-up hearing

1-10-1986

on June 1, 2010. The court entered and continued Tavros' motion to strike Hamilton's motion to vacate default judgment, Tavros' petition for fees and costs against Hamilton and Hamilton's motion to vacate default judgment to June 7, 2010. The court ordered Hamilton to file its reply to Tavros' motion to strike by June 4, 2010.

In its response to Tavros' motion to strike Hamilton's motion to vacate default judgment, Hamilton argued that, Anthony, its registered agent and counsel, was never personally served, which resulted in the November 2, 2009 default judgment finding. Hamilton claimed that Anthony underwent a prostatectomy, an abdominal surgical procedure, and had co-counsel appear on behalf of Hamilton on December 18, 2009 and January 15, 2010. Hamilton supported these claims by the unsigned affidavit of Anthony.

Hamilton asserted that its counsel telephoned Tavros' counsel on March 17, 2010 to communicate a joint settlement offer from both Hamilton and Gain Capital. According to Hamilton, counsel for Tavros proposed a counteroffer to both Hamilton and Gain Capital on March 18, 2010. Hamilton argued that its counsel, along with counsel for Tavros and Gain Capital, agreed to reschedule Tavros' motion for renewed default judgment until May 19, 2010 due to judicial conferences held that week.

Hamilton also contended that in response to Tavros' inquiry for a briefing schedule on Tavros' motion for renewed default judgment, Hamilton declined a briefing schedule in order to request leave to file its answer and counterclaim or motion to dismiss on that date. Hamilton claimed that it performed its due diligence throughout the proceedings by attending every hearing since it filed its appearance, filing its answer and counterclaim and negotiating a three-way

1-10-1986

settlement between Tavros, Hamilton and Gain Capital. Hamilton argued that it should not be prejudiced by the filing of its motion to strike and dismiss Tavros' complaint and its motion to vacate default judgment following delays due to various agreed extensions, judicial conferences and the unavailability of a judge prior to the hearing of Tavros' motion for renewed default judgment.

In addition, Hamilton asserted that it has a meritorious defense. Hamilton contended that its answer and counterclaim were dependent on the outcome of Gain Capital's petition to vacate default judgment since a potential counterclaim against Gain Capital would be a complete defense to the present action. Hamilton argued that its counterclaim against Markarian was meritorious and not self-serving because Tavros cited Markarian's hearsay affidavit on the face of Tavros' complaint. Hamilton asserted that substantial justice requires cross-examination of Markarian.

Hamilton requested that the circuit court deny Tavros' motion to strike Hamilton's motion to vacate default judgment. Hamilton also requested that the court vacate the default judgment entered against Hamilton on May 26, 2010 and grant Hamilton leave to file its answer and counterclaim or motion to strike or dismiss Tavros' complaint *instanter*.

On June 7, 2010, the circuit court entered and continued Tavros' motion to strike and petition for attorney fees and Hamilton's motion to vacate default judgment to June 8, 2010.

On June 8, 2010, the circuit court granted Tavros' motion to strike Hamilton's motion to vacate the May 26, 2010 default judgment. The court entered default judgment in favor of Tavros totaling \$44,067.50, plus \$4,400 in attorney fees and costs against Hamilton. The order

1-10-1986

stated that it was final and appealable.

The circuit court entered an additional order on June 9, 2010, finding that Hamilton and Gain Capital, who also had a default judgment entered against it, were jointly and severally liable for the amount of \$44,067.50, but Hamilton and Gain Capital were separately liable for attorney fees and costs. This order also stated that it was final and appealable. Also, the order is unclear as to whether counsel for Hamilton appeared at this hearing.

On July 7, 2010, Hamilton filed its “Separate Appeal” from the circuit court orders entered on May 26, 2010, June 8, 2010 and June 9, 2010.

II. ANALYSIS

On appeal, Hamilton argues that the circuit court abused its discretion by denying its motion to vacate default judgment pursuant to section 2-1301(e). Hamilton also asserts that the court erred by finding Hamilton jointly and severally liable with Gain Capital for the full amount of the \$44,067.50 in alleged damages. Finally, Hamilton contends the court erred by awarding Tavros attorney fees without a signed contract providing for attorney fees.

Tavros responds that appeal number 1-10-1986 should be dismissed for failure to include an appendix to Hamilton’s brief and otherwise comply with mandatory rules regarding appellate court briefs. Tavros also argues that this court lacks jurisdiction to hear Hamilton’s appeal because the notice of appeal was untimely. In addition, Tavros asserts that the circuit court was within its discretion to grant Tavros’ motion to strike Hamilton’s motion to vacate default judgment.

A. Violation of Supreme Court Rule 342

1-10-1986

Tavros correctly points out that Hamilton has failed to include an appendix in its brief in violation of Supreme Court Rule 342 (Ill. S. Ct. R. 342 (eff. Jan. 1, 2005) (Rule 342)). Rule 342 states, *inter alia*, that:

“The appellant’s brief shall include, as an appendix, a table of contents to the appendix, a copy of the judgment appealed from, any opinion, memorandum, or findings of fact filed or entered by the trial judge or by any administrative agency or its officers, any pleadings or other materials from the record which are the basis of the appeal or pertinent to it, the notice of appeal, and a complete table of contents, with page references, of the record on appeal.” *Id.*

We note that the First District’s docket is full and noncompliance with Rule 342 does not help us resolve appeals expeditiously. Furthermore, reviewing courts will not search the record for purposes of finding error in order to reverse the judgment when an appellant has made no good faith effort to comply with Rule 342. See *First National Bank in DeKalb v. City of Aurora*, 41 Ill. App. 3d 326, 328 (1976), *rev’d on other grounds*, 72 Ill. 2d 1 (1978). Noting the small record in this case, however, and for purposes of the effective administration of justice, we will not sanction Hamilton for its failure to include an appendix to its brief.

B. Timeliness of Hamilton’s Appeal

Tavros raises the issue of whether this court has jurisdiction to consider Hamilton’s appeal of the May 26, 2010 circuit court order in light of Hamilton’s July 7, 2010 filing of its notice of appeal. Concomitant with this issue is whether the May 26, 2010 order was final and appealable.

1-10-1986

This court more recently has recognized “an order of default is not a final judgment because it does not dispose of the case and determine the rights of the parties.” *Jackson v. Hooker*, 397 Ill. App. 3d 614, 620 (2010). “Instead, ‘an order of default is simply an interlocutory order that precludes the defaulting party from making any additional defenses to liability but in itself determines no rights or remedies.’ ” *Id.* (quoting *Fidelity National Title Insurance Co. of New York v. Westhaven Properties Partnership*, 386 Ill. App. 3d 201, 211 (2007)).

Supreme Court Rule 304(a) provides “any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties *** is subject to revision at any time before the entry of a judgment adjudicating all the claims, rights, and liabilities of all the parties.” Ill. S. Ct. R. 304(a) (eff. Jan. 1, 2006) (Rule 304(a)). The default judgment is the specific act that terminates the litigation and disposes of the case. *Jackson*, 397 Ill. App. 3d at 620 (citing *Wilson v. Teloptic Cable Construction Co.*, 314 Ill. App. 3d 107, 111 (2000)). “It is final if it grants the plaintiff relief and either resolves the case entirely or is final as to one party or cause of action and is certified in accord with the requirements of Supreme Court Rule 304(a).” *Wilson*, 314 Ill. App. 3d at 111-12. A default judgment is comprised of two factors: “(1) a finding of the issues for the plaintiff; and (2) an assessment of damages.” *Id.* at 112.

Applying the above factors to the instant case, the May 26, 2010 order granting Tavros’ renewed motion for default judgment was not final and appealable because it did not resolve the case entirely. Damages were not assessed against Hamilton until June 8, 2010. In addition, the May 26, 2010 order was devoid of Rule 304(a) language expressly stating that there is no just

1-10-1986

reason for delaying either enforcement or appeal, or both. Accordingly, we find that Hamilton's July 7, 2010 notice of appeal contesting the circuit court's May 26, 2010, June 8, 2010 and June 9, 2010 orders is timely.

C. Default Judgment

Hamilton appeals the granting of Tavros' motion to strike Hamilton's motion to vacate default judgment, the entry of default judgment in favor of Tavros and against Hamilton and the finding that Hamilton is jointly and severally liable with Gain Capital for the \$44,067.50 in damages assessed. Reviewing courts apply an abuse of discretion standard to the question of whether a circuit court properly granted a motion to strike. *In re Estate of Hoover*, 155 Ill. 2d 402, 420 (1993). An abuse of discretion standard also is applied for review of a motion to strike a petition to vacate default judgment. *Colletti v. Schrieffer's Motor Service, Inc.*, 38 Ill. App. 2d 128, 132 (1962).

A circuit court "abuses its discretion 'when it acts arbitrarily without the employment of conscientious judgment or if its decision exceeds the bounds of reason and ignores principles of law such that substantial prejudice has resulted.'" *Mann v. The Upjohn Co.*, 324 Ill. App. 3d 367, 377 (2001) (quoting *Marren Builders, Inc. v. Lampert*, 307 Ill. App. 3d 937, 941 (1999)). " 'If reasonable persons could differ as to the propriety of the [circuit] court's actions, then the [circuit] court cannot be said to have exceeded its discretion.' " *Mann*, 324 Ill. App. 3d at 377 (quoting *Merchants Bank v. Roberts*, 292 Ill. App. 3d 925, 930 (1997)).

Section 2-1301(e) provides that the circuit court has discretion to vacate a default on a

1-10-1986

motion filed within 30 days of entering the judgment. 735 ILCS 5/2-1301(e) (West 2008).

Tavros and Hamilton were represented by counsel on June 8, 2010, when the circuit court granted Tavros' motion to strike Hamilton's motion to vacate the May 26, 2010 default judgment. It is unclear whether counsel for Hamilton was present for the June 9, 2010 hearing during which the court found Hamilton and Gain Capital jointly and severally liable for the damages incurred by Tavros.

Tavros' brief notes that the circuit court ruled upon Tavros' motion to strike following argument by counsel for Hamilton and Tavros. The record on appeal includes no report of proceedings, although it appears a transcript of proceedings exists. Significantly, the June 8, 2010 and June 9, 2010 court orders do not state specific grounds for the court's decision.

"From the very nature of an appeal it is evident that the court of review must have before it the record to review in order to determine whether there was error claimed by the appellant." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). The moving party has the burden of establishing sufficient grounds for vacating a default judgment under section 2-1301(e). *Mann*, 324 Ill. App. 3d at 377. Moreover, "an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the [circuit] court was in conformity with law and had a sufficient factual basis." *Foutch*, 99 Ill. 2d at 392-93. Our supreme court has stated that "[a]ny doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Id.* at 392.

In *Foutch*, the plaintiff filed a complaint to recover for services performed and to impose

1-10-1986

a mechanic's lien on real estate of the defendants. The defendants filed an answer denying the allegations. The matter proceeded to trial, but the defendants did not appear. An *ex parte* hearing was held and the circuit court entered judgment for the plaintiff. Within 30 days of the judgment, the defendants filed a motion to vacate pursuant to section 2-1301(e), which the court denied. The appellate court affirmed the decision. The *Foutch* court affirmed the decision of the appellate court, holding it must be presumed that the denial of the defendants' motion to vacate default judgment "was in conformity with the law and was properly supported by evidence." *Id.* at 393.

In the instant case, the appellant has failed to present a sufficiently complete record of the proceedings to support a claim of error. Supreme Court Rule 323(a) provides that "[a] report of proceedings may include evidence, oral rulings of the trial judge, a brief statement of the trial judge of the reasons for his decision, and any other proceedings that the party submitting it desires to have incorporated in the record on appeal." Ill. S. Ct. R. 323(a) (eff. Dec. 13, 2005). Supreme Court Rule 323(c) authorizes the use of a bystander's report. Ill. S. Ct. R. 323(c) (eff. Dec. 13, 2005). An agreed statement of facts filed by the appellant is authorized by Supreme Court Rule 323(d). Ill. S. Ct. R. 323(d) (eff. Dec. 13, 2005). None of above methods of providing a complete record to the reviewing court was utilized by Hamilton.

All that appears before us in the record in support of Hamilton's position is Hamilton's initial December 2, 2009 appearance and court-provided form for its motion to vacate the default judgment entered against it on November 2, 2009, Hamilton's May 26, 2010 motion to strike and dismiss Tavros' complaint, Hamilton's May 28, 2010 motion to vacate the second default

1-10-1986

judgment entered against it on May 26, 2010, an unsigned verified answer and counterclaim to Tavros' complaint and a response to Tavros' motion to strike, supported by Anthony's unsigned affidavit. There is no record evidence that Hamilton ever paid its appearance fee.

In the interest of determining whether substantial justice is being done between the litigants, we have reviewed the entire record submitted by the appellant. From what is before us, the circuit court's decisions to enter default judgment against Hamilton and grant Tavros' motion to strike Hamilton's motion to vacate default judgment were fair and just.

The record clearly reflects a lack of due diligence on the part of Hamilton and an utter failure to follow established litigation procedures and court orders. In addition, Hamilton set forth no extraordinary circumstances for its noncompliance that would warrant the vacatur of the default judgment. See *Ameritech Publishing of Illinois, Inc. v. Hadyeh*, 362 Ill. App. 3d 56, 59 (2005) ("A party petitioning the court to vacate a default judgment must show that, through no fault or negligence of his own, error of fact or existence of a valid defense was not made to appear to the [circuit] court in the initial proceedings"); *Gonzalez v. Profile Sanding Equipment, Inc.*, 333 Ill. App. 3d 680, 689-90 (2002) (finding the defendant failed to use diligence in presenting its case to the [circuit] court and that the defendant "hardly participated in the action throughout its near four-year life, other than through filing its responsive pleadings as ordered by the [circuit] court"). At no time did Hamilton file an answer, despite two court orders requiring it to do so. The record also belies Hamilton's claim that counsel appeared at every hearing since it filed its initial appearance. Hamilton's failure to pay its appearance fee is an additional example of its failure to exercise due diligence in the litigation of this claim.

1-10-1986

Furthermore, Hamilton has not presented a meritorious defense to warrant a trial. Indeed, the record makes clear that Hamilton simply did not pay for information technology services rendered by Tavros pursuant to the agreement.

Moreover, as Hamilton has failed to provide a report of proceedings, we must presume that the orders entered by the court were in conformity with law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 392-93. In sum, Hamilton is the architect of its own predicament and its complaint that it was denied substantial justice is contradicted by the limited record provided to this court.

Accordingly, we find the circuit court did not abuse its discretion in its decisions to enter default judgment in favor of Tavros and against Hamilton on May 26, 2010, grant Tavros' motion to strike Hamilton's motion to vacate default judgment on June 8, 2010 and find Hamilton jointly and severally liable with Gain Capital for the \$44,067.50 in damages awarded to Tavros.

III. CONCLUSION

For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

Affirmed.