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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELMER BUICK, et al.,

Plaintiffs,

No. CIV 07-1447 MCE KJM

vs.

WORLD SAVINGS BANK, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff’s motion for an order to show cause re: contempt came on regularly for hearing November 17, 2010. Marie Appel, Daniel Harris and Anthony Valach appeared telephonically for plaintiffs. Brian DeAmicis appeared for defendant Transamerican Financial Corporation. No appearance was made for defendant World Savings Bank n/k/a/ Wachovia Mortgage. Upon review of the documents in support, no opposition having been filed, upon hearing the arguments of counsel, and good cause appearing therefor, THE COURT FINDS AS FOLLOWS:

In orders filed July 2, 2009 and July 9, 2009, defendant Transamerican was directed to provide further responses to discovery and to pay reasonable expenses incurred in connection with the discovery motions in the amounts of \$2,100 and \$750 respectively. Docket nos. 69, 71. Defendant has not complied with those orders. Docket no. 72. Over one year

1 later, defendant still has not provided the ordered discovery and has failed to pay the amounts
2 ordered by the court.

3 At hearing, defense counsel for Transamerican represented he has been unable to
4 obtain cooperation from defendant in responding to the court's discovery orders.¹ Plaintiff's
5 counsel represented to the court that plaintiff has been unable to obtain from defendant the
6 discovery necessary to prosecute this action because of defendant's failure to comply with the
7 court's orders and requested that judgment be entered against defendant in the amount of
8 \$10,000. The court finds defendant's actions in failing to comply with the court's orders are
9 willful and that terminating sanctions are appropriate.

10 Accordingly, IT IS HEREBY RECOMMENDED that:

11 1. Terminating sanctions be issued against defendant Transamerican Financial
12 Corporation; and

13 2. Judgment be entered in the amount of \$10,000 against defendant
14 Transamerican Financial Corporation.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
17 days after being served with these findings and recommendations, the parties may file written
18 objections with the court. Any such document should be captioned "Objections to Magistrate
19 Judge's Findings and Recommendations." Within seven days of any party's filing objections,
20 any other party may file a reply. The parties are advised that failure to file objections within the
21 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
22 F.2d 1153 (9th Cir. 1991).

23 DATED: November 17, 2010.

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U.S. MAGISTRATE JUDGE

25 _____
26 ¹ Defense counsel previously has sought to withdraw from representation but his motion
was denied. Docket no. 58.