

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 13-cv-01377-WYD-BNB

MICHAEL W. FOULARD,

Plaintiff,

v.

McFARLAND HOLDINGS, LLC, a Colorado limited liability company;
JONATHAN M. THOMAS, individually;
MEYER FAMILY LIMITED PARTNERSHIP, a Delaware limited partnership; and
MFLP GP, LLC, a Colorado limited liability company, as General Partner of Meyer
Family Limited Partnership,

Defendants.

**ORDER ADOPTING AND AFFIRMING RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

THIS MATTER is before the Court on the Amended Recommendation of United States Magistrate Judge and Order (“Amended Recommendation”), filed October 18, 2013. (ECF No. 26). In the Amended Recommendation, Magistrate Judge Boland recommends that plaintiff’s Motion for Default Judgment be granted and that default judgment pursuant to Fed. R. Civ. P. 55(b) be entered in favor of the plaintiff and against the defendants, jointly and severally, in the amount of \$2,194,301.50. (Amended Recommendation at 2). Magistrate Judge Boland further recommends that the plaintiff be awarded his costs pursuant to 28 U.S.C. § 1920 on the filing of a proper bill of costs. The Amended Recommendation is incorporated herein by reference. See 28 U.S.C. § 36(b)(1)(B), Fed. R. Civ. P. 72(b).

Magistrate Judge Boland advised the parties that written objections were due within fourteen (14) days after service of a copy of the Amended Recommendation. (Amended Recommendation at 6). Despite this advisement, no objections were filed to the Amended Recommendation. No objections having been filed, I am vested with discretion to review the Amended Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Amended Recommendation to "satisfy [my]self that there is no clear error on the face of the record."¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Amended Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Boland's Amended Recommendation is thorough, well-reasoned and sound. I agree with Magistrate Judge Boland that plaintiff's motion for default judgment should be granted.

Based on the foregoing, it is

ORDERED that the Amended Recommendation of United States Magistrate Judge Boland (ECF No. 26) is **AFFIRMED** and **ADOPTED**.

¹ Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review, Fed. R. Civ. P. 72(b).

In accordance therewith, it is

ORDERED that the Motion for Default Judgment (ECF No. 21) is **GRANTED**. Judgment shall enter in favor of the plaintiff and against the defendants, jointly and severally, in the amount of \$2,194,301.50. Accordingly, plaintiff is awarded his costs pursuant to 28 U.S.C. § 1920 on the filing of a proper bill of costs as provided in D.C.COLO.LCivR 54.1.

Dated: November 13, 2013

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Senior United States District Judge