

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 14-cv-02513-REB-MJW

BRANZAN ALTERNATIVE INVESTMENT FUND, LLLP, on behalf of itself and all others
similarly situated,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,

Defendant.

**ORDER ADOPTING RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matter before me is the magistrate judge's **Report and Recommendation on Defendant The Bank of New York Mellon Trust Company, N.A.'s Motion for Judgment on the Pleadings on Two Remaining Claims Asserted in Plaintiff's Complaint (Docket No. 84)** [#88],¹ filed January 12, 2016. No objection having been timely filed to the recommendation, I review it for plain error only. ***See Morales-Fernandez v. Immigration & Naturalization Service***, 418 F.3d 1116, 1122 (10th Cir. 2005). Finding no error, much less plain error, in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted. Indeed, it appears plaintiff agrees to dismissal of its remaining claims in this lawsuit.

¹ "[#88]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

THEREFORE, IT IS ORDERED as follows:

1. That the **Report and Recommendation on Defendant The Bank of New York Mellon Trust Company, N.A.'s Motion for Judgment on the Pleadings on Two Remaining Claims Asserted in Plaintiff's Complaint (Docket No. 84) [#88]**, filed January 12, 2016, is approved and adopted as an order of this court;

2. That the **Motion of Defendant The Bank of New York Mellon Trust Company, N.A.'s Motion for Judgment on the Pleadings on Two Remaining Claims Asserted in Plaintiff's Complaint [#84]**, filed December 2, 2015, is granted;

3. That Counts 2 and 5 of the complaint are dismissed with prejudice;

4. That judgment with prejudice shall enter as follows:

a. As to Counts 2 and 5 on behalf of defendant The Bank of New York Mellon Trust Company, N.A., and against plaintiff, Branzen Alternative Investment Fund, LLLP, on behalf of itself and all others similarly situated; and

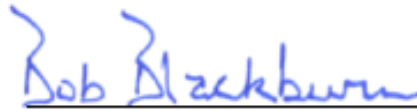
b. In accordance with my **Order Overruling Objections to and Adopting Recommendation of United States Magistrate Judge ¶ 6 at 8 [#76]**, filed September 29, 2015;

5. That defendants are awarded their costs, to be taxed by the clerk of the court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1; and

6. That accordingly, this case is closed.

Dated February 4, 2016, at Denver, Colorado.

BY THE COURT:

A handwritten signature in blue ink that reads "Rob Blackburn". The signature is written in a cursive, slightly stylized font. The word "Rob" is written in a larger, more prominent script than "Blackburn".

Robert E. Blackburn
United States District Judge