

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-0798 (PLF)
)	
ALL ASSETS HELD AT BANK JULIUS,)	
Baer & Company, Ltd., Guernsey)	
Branch, account number 121128, in the)	
Name of Pavlo Lazarenko <u>et al.</u> ,)	
)	
Defendants <u>In Rem.</u>)	
)	

MEMORANDUM OPINION AND ORDER

This matter is before the Court on the objections [1228] to Magistrate Judge G. Michael Harvey’s Report and Recommendation [1209] dated September 5, 2019. The Court has carefully considered claimant Alexander Lazarenko’s objections, the response of the United States [1232], and Mr. Lazarenko’s reply [1236].

Magistrate Judge Harvey has recommended to this Court that the government’s motion for sanctions [1182] be granted to the extent that it seeks dismissal of Alexander Lazarenko’s claims in this action and denied to the extent it seeks evidentiary sanctions against Pavel Lazarenko, Ekaterina Lazarenko, and Lecia Lazarenko. He also recommends that it be denied to the extent it seeks an order compelling Alexander Lazarenko to appear for a deposition and an award of expenses. Magistrate Judge Harvey noted that because he imposed the ultimate sanction of dismissal for violations of discovery orders, it was appropriate that his opinion come

to this Court in the form of a report and recommendation rather than a memorandum opinion and order. The Court agrees, as dismissal of a party disposes of the case as to that party.

While a magistrate judge's determination on a non-dispositive matter is entitled to great deference and will be set aside only if clearly erroneous or contrary to law, FED. R. CIV. P. 72(a), the standard is different with respect to dispositive matters. See FED. R. CIV. P. 72(b). Because dismissing a party from a case is a dispositive matter, this Court has considered Magistrate Judge Harvey's Report and Recommendation de novo. It has reviewed many of the underlying record documents which Magistrate Judge Harvey and the parties have cited, including Docket Nos. 1018, 1091, 1123, 1127, 1131, 1132, 1135, 1148, 1150, 1152, 1153, 1162, 1166, 1167, 1175, 1177, 1178, 1182, 1192, and 1198. It has also read the transcript of the hearing of May 16, 2017 [Dkt. No. 986] before Magistrate Judge Harvey. Upon de novo consideration of the matter, the Court concludes that Magistrate Judge Harvey correctly concluded that dismissal of Alexander Lazarenko's claim was appropriate given the circumstances presented. In light of the facts, it seems clear that no sanction other than dismissal would be effective in this case. Accordingly, it is hereby

ORDERED that the Report and Recommendation of Magistrate Judge G. Michael Harvey is ADOPTED, APPROVED, AND ACCEPTED; it is

FURTHER ORDERED that the government's motion for sanctions [1182] is GRANTED to the extent it seeks dismissal of Alexander Lazarenko's claims in this action; it is

FURTHER ORDERED that the motion is DENIED to the extent that it seeks (1) evidentiary sanctions against Pavel Lazarenko, Ekaterina Lazarenko, and Lecia Lazarenko; (2) an order compelling Alexander Lazarenko to appear for a deposition; and (3) an award of expenses; and it is

FURTHER ORDERED that Alexander Lazarenko is DISMISSED as a claimant
in this case.

SO ORDERED.



Paul L. Friedman

PAUL L. FRIEDMAN
United States District Judge

DATE: December 19, 2019