

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

HILDA L. SOLIS, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

Case No. 3:11-cv-248-J-34MCR

J.W. BUCKHOLZ TRAFFIC
ENGINEERING, INC.; BURITA ALLEN
HILLYARD; JEFFREY WILLIAM
BUCKHOLZ; and J.W. BUCKHOLZ
TRAFFIC ENGINEERING, INC. PROFIT
SHARING PLAN,

Defendants.

ORDER

THIS CAUSE is before the Court on Magistrate Judge Monte C. Richardson's Report and Recommendation (Dkt. No. 54; Report), entered on December 6, 2012. In the Report, Magistrate Judge Richardson recommends that Plaintiff's Renewed Motion for Default Judgment (Dkt. No. 51) be granted, in part, and denied, in part. See Report at 8. No objections to the Report have been filed, and the time for doing so has now passed.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). If no specific objections to findings of facts are filed, the district court is not required to conduct a de novo review of those findings. See Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993);

see also 28 U.S.C. § 636(b)(1). However, the district court must review legal conclusions de novo. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at * 1 (M.D. Fla. May 14, 2007).

Upon independent review of the file and for the reasons stated in the Magistrate Judge's Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

ORDERED:

1. The Report and Recommendation (Dkt. No. 54) of Magistrate Judge Richardson is **ADOPTED** as the opinion of the Court.

2. Plaintiff's Renewed Motion for Default Judgment (Dkt. No. 51) is **GRANTED, in part, and DENIED, in part.**


a. The Renewed Motion is **GRANTED** to the extent that Defendant Hillyard must restore \$2,693.55, plus post-judgment interest. In addition, any participant interest Defendant Hillyard may have in any existing or future assets of the Plan shall be applied as an offset against the amounts that Plaintiff has alleged are due to the Plan, as authorized by ERISA § 206(d)(4), and the Plan document shall be deemed amended to permit the distribution and offset of Defendant Hillyard's participant interest.

b. Otherwise, the Renewed Motion is **DENIED**.

3. The Clerk of Court is **DIRECTED** to enter judgment in favor of Plaintiff Hilda L. Solis, Secretary of Labor, United States Department of Labor, and against Defendant Burita Allen Hillyard for the sum of \$2,693.55, plus post-judgment interest.

4. The Clerk of the Court is further directed to close the file.

DONE AND ORDERED in Jacksonville, Florida, this 3rd day of January, 2013.


MARCIA MORALES HOWARD
United States District Judge

ja

Copies to:

The Honorable Monte C. Richardson
United States Magistrate Judge

Counsel of Record

Burita Allen Hillyard
226 Deerwood Circle W.
Middleburg, FL 32068