

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

REGIONS BANK, an Alabama
banking corporation,

Plaintiff,

v.

CASE NO. 8:12-CV-1837-T-17MAP

MARVIN I. KAPLAN, an
individual, et al.,

Defendants.

_____ /

ORDER

This cause is before the Court on:

Dkt. 837 Agreed Motion for Entry of Omnibus Final Judgment on All
Claims, Counterclaims and Crossclaims and to Vacate the
Clerk's Final Judgments on Partial Claims

Plaintiff Regions Bank requests the entry of an Omnibus Final Judgment disposing of all claims, counterclaims and crossclaims by and against the parties. As to the claims for which the Court has entered summary judgment in favor of Regions Bank, Plaintiff Regions requests entry of a final judgment awarding damages to Regions Bank. As to Plaintiff Regions' claims for damages against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC, the spreadsheet attached to the Agreed Motion shows the amounts of the respective overdrafts, and the amount of prejudgment interest that should be awarded on the respective overdrafts. Plaintiff Regions Bank further requests that the Court retain jurisdiction to determine reasonable attorney's fees and expenses owed by the Kaplan Entities on Regions' post-judgment motion for that relief, and requests that the Court retain jurisdiction to determine reasonable attorney's fees and costs as to other parties.

In the Memorandum Opinion (Dkt. 826), the Court directed the Clerk of Court to enter a final judgment on the respective claims in favor of R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC and against Regions Bank. (Dkts. 828, 829, 830, 831, 832). Regions Bank requests that the Court vacate these judgments and include the judgments in the Omnibus Final Judgment.

I. Damages Awarded to Plaintiff Regions Bank

The Court granted summary judgment in favor of Plaintiff Regions Bank on multiple counts as to each Kaplan Entity. However, Regions Bank may only recover once for the same actual damages, regardless of the alternative theories presented. See Sierra Equity Grp., Inc. v. White Oak Equity Partners, LLC, 650 F.Supp.2d 1213, 1229 (S.D. Fla. 2009).

In the Corrected Second Amended Complaint, Plaintiff Regions Bank identifies Regions' losses:

- A. R1A Palms, LLC Account: (\$9,116,353.47)
- B. Triple Net Exchange, LLC Account: (\$1,689,590.03)
- C. MK Investing, LLC Account: (\$1,178,923.79)
- D. BNK Smith, LLC Account: (\$ 164,379.01)

The spreadsheet attached to the Agreed Motion indicates that as of March 5, 2012, Regions' loss as to the R1A Palms, LLC Account was reduced to \$3,366,007.52.

The spreadsheet reflects the award of prejudgment interest to July 5, 2017. The Court has included additional prejudgment interest to November 9, 2017, including 86

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days at 5.17% and 40 days at 5.35%:

A.	R1A		
	86 x 476.77		\$41,002.22
	40 x 493.96		\$19,758.40
B.	TNE		
	86 x 239.32		\$20,581.52
	40 x 247.65		\$ 9,902.00
C.	MKI		
	86 x 166.99		\$14,361.14
	40 x 173.00		\$ 6,920.00
D.	BNK		
	86 x 23.28		\$ 2,002.08
	40 x 24.12		\$ 964.80

The Court therefore awards damages and prejudgment interest to Regions Bank in the following amounts:

A.	R1A		
	Damages		\$3,366,007.52
	Prejudgment Interest		\$ 942,400.31
B.	TNE		
	Damages		\$1,689,590.03
	Prejudgment Interest		\$ 467,513.70

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C.	MKI	
	Damages	\$1,178,923.79
	Prejudgment Interest	\$ 326,222.14
D.	BNK	
	Damages	\$ 164,379.01
	Prejudgment Interest	\$ 48,485.23

The Court reserves jurisdiction for the award of attorney's fees and costs as to Plaintiff Regions Bank and as to all other parties on their claims..

II. Request for Entry of Omnibus Final Judgment on All Claims, Counterclaims and Crossclaims

The operative Complaint in this case is the Corrected Second Amended Complaint, comprised of 32 Counts (Dkt. 671), which replaces the Second Amended Complaint (Dkt. 190).

Defendants Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC ("Kaplan Parties") initially asserted a Counterclaim/Crossclaim comprised of 21 Counts. (Dkt. 3). The Kaplan Parties subsequently filed the Amended Counterclaim and Crossclaims, comprised of 23 Counts (Dkt. 93).

Bridgeview Bank Group asserted a Counterclaim and Crossclaim comprised of two Counts against Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC. (Dkt. 271).

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After consideration, the Court grants the Agreed Motion for Entry of Omnibus Final Judgment on All Claims, Counterclaims and Crossclaims pursuant to Fed. R. Civ. P. 58.

Accordingly, it is

ORDERED that Plaintiff Regions Bank is awarded damages and prejudgment interest as follows:

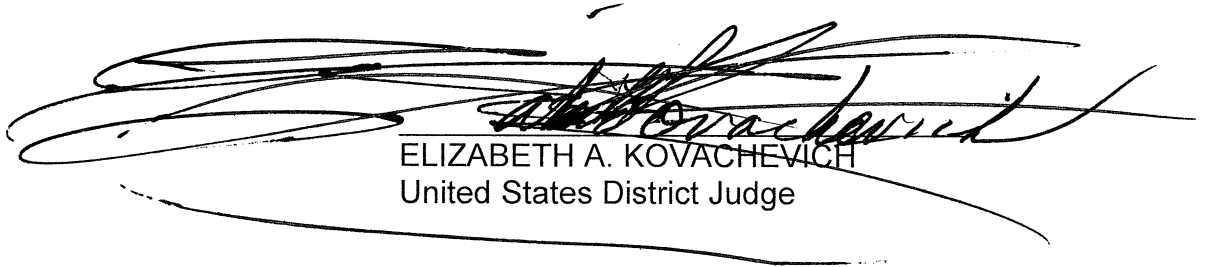
A.	R1A		
		Damages	\$3,366,007.52
		Prejudgment Interest	\$ 942,400.31
B.	TNE		
		Damages	\$1,689,590.03
		Prejudgment Interest	\$ 467,513.70
C.	MKI		
		Damages	\$1,178,923.79
		Prejudgment Interest	\$ 326,222.14
D.	BNK		
		Damages	\$ 164,379.01
		Prejudgment Interest	\$ 48,485.23

The Court **reserves jurisdiction** for the determination of attorney's fees and costs as to Plaintiff Regions Bank and as to all other parties on their claims. It is further

ORDERED that the Agreed Motion for Omnibus Final Judgment on All Claims, Counterclaims and Crossclaims (Dkt. 837) is **granted**, and a separate Final Judgment will be entered. The Court **vacates** the prior partial Final Judgments entered on the Court's Memorandum Opinion (Dkts. 828, 829, 830, 831, 832).

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DONE and ORDERED in Chambers in Tampa, Florida on this 9th day of
November, 2017.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record