

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 05-22115-CIV-COOKE/BANDSTRA

GLOBAL DISTRIBUTORS, B.V.,
et. al.,Plaintiffs,
vs.BASIL BATTAH, *et. al.*,Defendants.

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on Plaintiffs' Motion to Enforce Settlement and for Entry of Judgment (D.E. 45) filed on January 7, 2009. On February 18, 2009, this matter was referred to the undersigned for appropriate resolution pursuant to 28 U.S.C. §636(b). On May 13, 2009, the undersigned conducted a hearing on this motion. Having carefully reviewed the motion, the court file, applicable law, and argument presented at the hearing before this Court, it is hereby

ORDERED AND ADJUDGED that plaintiffs' motion to enforce settlement is GRANTED. As such, the undersigned recommends that plaintiffs' motion for entry of judgment be GRANTED for reasons more fully stated below.

BACKGROUND

On or about August 1, 2005, plaintiffs filed this action against defendants for conversion, civil theft, as well as other claims. On or about April 18, 2006, the parties

reached a settlement agreement whereby defendants agreed to pay plaintiffs the sum of \$250,000.00, payable at \$5,000.00 per month beginning on May 20, 2006 and continuing monthly until the outstanding amount was paid in full. On or about August 2008, defendants ceased making their required payments and have failed to make any payments thereafter.

In accordance with the terms of the Settlement Agreement, the defendants agreed that in the event of default that plaintiffs are "entitled to a judgment for all sums remaining due ...against FTS Distributors and Basil Battah, and plaintiffs shall be entitled to their attorneys fees and all costs of collection incurred hereafter." As such, defendants have failed to make the required monthly payments and currently owe the remaining balance of \$115,000.00 along with the requested attorneys' fees and costs of \$4,588.50, for a total sum of \$119,588.50.

On May 13, 2009, the parties and their counsel appeared before this Court. The undersigned first permitted the parties to conduct negotiations in an effort to amicably resolve the pending motion but without success. Mr. Battah then admitted that the settlement agreement was signed by him on behalf of himself, individually, and on behalf of the corporate defendant. Further, the Court explained to Mr. Battah and Mr. Battah indicated his understanding of the circumstances confronting him and his corporation. Nonetheless, the parties were unable to resolve the pending motion. Further, the defendants filed no written response to the motion and, in essence, offered no response to the motion to absolve itself or the corporation of the contractual obligations of the settlement agreement. Accordingly, the Court enforces the terms of the settlement agreement and grants the motion to enforce. Further, the undersigned now recommends

that the District Court enter final judgment against the defendants, Basil Battah, individually, and American Automotive Security Products, Inc. d/b/a FTS Distributors in the amount of \$119,588.50, representing the outstanding balance of its obligation under the settlement agreement and the attorneys' fees and costs incurred in enforcing same.

RECOMMENDATION

For all the foregoing reasons, the undersigned respectfully recommends entry of the proposed final judgment attached hereto.

The parties may serve and file written objections to this Report and Recommendation with the Honorable Marcia G. Cooke, United States District Judge, within five (5) days of receipt. See 28 U.S.C. §636(b)(1)(c); United States v. Warren, 687 F.2d 347 (11th Cir. 1982); cert. denied, 460 U.S. 1087 (1983); Hardin v. Wainwright, 678 F.2d 589 (5th Cir. Unit B 1982); see also Thomas v. Arn, 474 U.S. 140 (1985).

RESPECTFULLY SUBMITTED this 13th day of May 2009 in Miami, Florida.



Ted E. Bandstra
United States Magistrate Judge

cc: Honorable Marcia G. Cooke
All counsel of record