

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**

Case Number: 10-21905-CIV-GAYLES/LOUIS

PROVIDENT BANK,

Plaintiff,

v.

ROGERIO MARSAN,

Defendant.

_____ /

ORDER

THIS CAUSE comes before the Court on Plaintiff Provident Bank's Motion for Sanctions and Order to Show Cause (ECF No. 72). The Motion was referred to the undersigned United States Magistrate Judge by the Honorable Darrin P. Gayles, United States District Judge (ECF No. 73).

This dispute arises out of Defendant Rogerio Marsan's default of an installment loan and preferred mortgage owned and held by Plaintiff (ECF No. 13). Final Summary Judgment was entered in favor of Plaintiff on March 23, 2011, in the amount of \$113,173.78, plus accruing interest (ECF No. 17). On December 23, 2019, Plaintiff propounded a Request for Production upon Defendant in aid of execution, to which Defendant failed to respond. On February 13, 2020, Plaintiff filed a Motion to Compel Responses to Discovery in Aid of Execution (ECF No. 66). The Court granted this motion, holding that "responses to Plaintiff's Third Request For Production In Aid of Execution shall be served upon Plaintiff's counsel by no later than April 3, 2020" (ECF No. 70). The Order warned that "[f]ailure to comply with this Order may result in the imposition of sanctions, including but not limited to an award of expenses incurred as a result of Defendant's violation of this Order" (id.).

In this current Motion, Plaintiff again avers that Defendant has failed to respond to its outstanding discovery request, despite the Court's Order compelling a response. Plaintiff seeks attorney's fees of \$400.00 as sanctions, as well as an entry of an Order to Show Cause. Defendant has not responded to the Motion, and the time to do so has long passed. Marsan has failed to comply with this Court's order and has failed to satisfy the judgment against him.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Plaintiff's request for an entry on an Order to Show Cause (ECF No. 72) is **GRANTED**. Rogerio Marsan shall personally appear on **December 3, 2020, at 10:00 AM**, before the undersigned United States Magistrate Judge at the United States Courthouse, C. Clyde Atkins Building, 301 North Miami Avenue, 11th Floor, Miami, Florida, 33128, to show cause why he should not be held in contempt of Court for failing to provide discovery responses by April 3, 2020, as ordered by this Court; and why he should not be ordered to pay \$400 to Plaintiff as a sanction for his failure to timely comply.


Marsan is cautioned to retain counsel before the hearing, which has been set so that he may show cause why he should not be held in contempt and subjected to sanctions, which could include daily coercive fines until he purges himself of that contempt.

Marsan must be prepared to testify regarding why he should not be held in contempt of Court. Marsan and his counsel are instructed to review the procedures posted on the Southern District of Florida's website for guidance relating to the Court's COVID-19 procedures and response. **Failure to appear at this hearing may result in issuance of a warrant for Marsan's arrest and incarceration until he complies with this Court's Order.**

It is furthered **ORDERED** that Plaintiff shall serve a copy of this Order on Marsan and file a Notice of Satisfaction of Service by no later than November 16, 2020. Personal service on

Marsan is required; substitute service of this Order will not suffice.

DONE and **ORDERED** in Chambers at Miami, Florida this 2nd day of November, 2020.



LAUREN LOUIS
UNITED STATES MAGISTRATE JUDGE