

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 16-23231-CIV-MORENO

WHIRLPOOL CORPORATION,

Plaintiff,

vs.

FREIGHT REVENUE RECOVERY OF
MIAMI, INC.,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE LOUIS'S REPORT AND
RECOMMENDATION**

THE MATTER was referred to the Honorable Lauren F. Louis, United States Magistrate Judge, for a Report and Recommendation on Defendant's Renewed and Amended Motion to Dissolve Writ of Garnishment and Claim of Exemption, filed on **June 17, 2019**.

The Magistrate Judge filed a Report and Recommendation (**D.E. 170**) on **February 18, 2020** addressing the underlying motion. The Court has reviewed the entire file and record. The Court has made a *de novo* review of the issues that the objections to the Magistrate Judge's Report and Recommendation present, and being otherwise fully advised in the premises, it is

ADJUDGED that United States Magistrate Judge Lauren F. Louis's Report and Recommendation is **AFFIRMED** and **ADOPTED**. Defendant-debtor Freight Revenue Recovery of Miami, Inc.'s objections mainly comprise an impermissible second bite at the apple. The Report and Recommendation satisfactorily explains in depth why (1) the disputed Charles Schwab & Co. account containing more than \$800,000 is subject to garnishment and is not exempt under section 222.21, Florida Statutes (2020) (it does not contain monies belonging to a qualified profit-sharing

plan), and (2) the monies in that account unquestionably belong to Freight Revenue, and not its owner Richard Dawson (the monies belong to a general operating account). Freight Revenue's argument challenging this Court's subject matter jurisdiction under 26 U.S.C. § 7476 is misplaced on the merits as no authority cited strips this Court of jurisdiction. Accordingly, it is

ADJUDGED that

(1). Defendant-debtor Freight Revenue's Renewed and Amended Motion to Dissolve Writ of Garnishment and Claim of Exemption is **DENIED**, and

(2). Plaintiff-creditor Whirlpool Corporation is **DIRECTED** to re-file a motion for final judgment in garnishment against Freight Revenue seeking statutory interest and costs, if any.

DONE AND ORDERED in Chambers at Miami, Florida, this 24th of March 2020.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies furnished to:

United States Magistrate Judge Lauren F. Louis

Counsel of Record