

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

PAINTERS DISTRICT COUNCIL 58
401(K) TRUST FUND, et al.,

Plaintiffs,

v.

Case No. 3:17-CV-1394-NJR-MAB

QUALITY ASSURED INDUSTRIAL
COATINGS, LLC,

Defendant.

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Mark A. Beatty (Doc. 77) regarding a motion to avoid fraudulent transfers filed by the Plaintiffs in this matter. (Doc. 68). The Report and Recommendation, entered on September 8, 2021, recommends that the Court declare the two transfers at issue void (up to the amount of Plaintiffs' judgment) and order the debtor to turn over \$64,065.75 to the Plaintiffs. No objection to the Report and Recommendation was filed.¹

¹ The Court received a letter from Mr. Tim Johnes on September 20, 2021. As explained in the Court's Order on August 4, 2021, however, "an LLC must be represented by counsel to litigate in federal court and when an LLC fails to obtain legal counsel after a reasonable opportunity to do so, the likely consequence will be the court barring the LLC from further participation in the litigation." (Doc. 76, p. 3); *see also Nocula v. UGS Corp.*, 520 F.3d 719, 725 (7th Cir. 2008) ("[c]orporations cannot appear *pro se*") (citations omitted). Filing an objection to a magistrate judge's report and recommendation is an action that cannot be done *pro se* by a corporation, but must be done by a corporation's attorney. Accordingly, the letter does not serve as an objection to the Report and Recommendation. (Doc. 77).

Where neither timely nor specific objections to the Report and Recommendation are made, the Court should review the Report and Recommendation for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). The Court may then “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

The undersigned has reviewed Magistrate Judge Beatty’s Report and Recommendation and finds there is no clear error in his findings of fact or conclusions of law. Accordingly, the Report and Recommendation (Doc. 77) is **ADOPTED** in its entirety. This Court holds the two transfers at issue void (up to the amount of Plaintiffs’ judgment). The Court will defer the entry of judgment against Beth Johnes, personally, until after she has had **21 days** to comply with the Court’s turn over order. If she fails to comply with the order, the Court will enter judgment against her, personally, as a sanction.

Debtor is **ORDERED** to turn over \$64,065.75 to the Plaintiffs.

IT IS SO ORDERED.

DATED: September 28, 2021

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. Behind the signature, there is a faint circular seal of the United States District Court for the District of Illinois, featuring an eagle and the text "U.S. DISTRICT COURT OF ILLINOIS".

NANCY J. ROSENSTENGEL
Chief U.S. District Judge