1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

vs.

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

MARK W. WITT,

Plaintiff,

HAMPTON & HAMPTON, et al., Defendants. Case No. 2:13-cv-02344-GMN-GWF <u>ORDER</u> Motion to Compel (#21)

This matter is before the Court on Plaintiff's Motion to Compel Non-Party Silverstone Ranch Community Association's ("Silverstone") Response to Plaintiff's Subpoena Duces Tecum (#21), filed on April 9, 2014. No opposition was filed in this matter.

This case involves the non-judicial foreclosure sale of Plaintiff's residence. *See Doc.* #21 at pg. 3 ¶ 4. Non-party Silverstone is the homeowner's association for the residence. *Id.* at pg. 5 ¶ 8. Plaintiff served Silverstone with a subpoena duces tecum on February 10, 2014. *See Doc.* #21 at pg. 3 ¶ 6. Therein, Plaintiff requested Silverstone produce certain documents on or before March 5, 2014 that are pertinent to the pending litigation. *Id.* Plaintiff alleges that Silverstone did not object to the Supboena nor has it produced the requested documents. *Id.* at ¶ 7. Plaintiff's attempts to contact Silverstone have been futile. *Id.* at ¶¶8-9. Plaintiff wishes to review the documents identified in his subpoena duces tecum before proceeding with any depositions. *See Doc.* #19 at pg. 5 ¶¶ 11-15. Plaintiff therefore moves the Court to compel non-party Silverstone to respond to his requests in the subpoena duces tecum *See Doc.* #21 at pg. 3 ¶ 6.

Rule 45(d)(2)(B) states that a person commanded to produce documents may serve on the party
designated in the subpoena a written objection. The objection must be served before the earlier of the
time specified for compliance or 14 days after the subpoena is served. *See* Fed. R. Civ. P. 45(d)(2)(B).

Furthermore, Rule 45(d)(2)(B)(ii) permits the serving party to move the Court for an order compelling production where compliance is required.

Here, Plaintiff served Silverstone with a subpoena duces tecum on February 10, 2014, therein requesting the production of certain documents pertinent to the pending litigation. Silverstone neither objected to nor produced the documents requested. Despite numerous telephone calls and written correspondence from Plaintiff's counsel, Silverstone continues to flout its duty to respond. Furthermore, after receiving a notice of hearing on Plaintiff's pending motion to compel, neither opposing counsel nor Silverstone filed an opposition in the matter. Local Rule 7-2(d) states that the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion. The Court therefore finds good cause to grant Plaintiff's motion to compel. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Compel Silverstone Ranch Community Association's Response to Plaintiff's Subpoena Duces Tecum (#21) is granted. Silverstone Ranch Community Association shall have until June 9, 2014 to respond to Plaintiff's subpoena duces tecum. IT IS FURTHER ORDERED that the Clerk of the Court mail a copy of this order to

Silverstone Ranch Community Association at the following address:

Silverstone Ranch Community Association c/o First Service Residential Nevada, LLC 8290 Arville Street Las Vegas, Nevada 89139

IT IS FURTHER ORDERED that the motion hearing set for **Monday**, **May 12, 2014** on Plaintiff's Motion to Compel (#21) is **vacated**.

DATED this 8th day of May, 2014.

GEORGE FOLEY.

GEORGE FOLEY, JR./ United States Magistrate Judge