

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Philip H. Shum,)
4)
5 Plaintiff,)
6 vs.)
7 American Sterling Bank; et al.,)
8 Defendants.)

Case No.: 2:14-cv-0973-GMN-PAL

ORDER

9
10 Pending before the Court is Defendants’ Motion to Expunge. (ECF No. 29). Though the
11 deadline passed on July 6, 2015, pro se Plaintiff Philip H. Shum has not filed a Response.

12 This case centers upon Plaintiff’s allegations of mortgage fraud against Defendants
13 American Sterling Bank, Federal Home Loan Mortgage Corporation, and Mortgage Electronic
14 Registration Systems, Inc. (Compl., ECF No. 1-1). As relief for the claims in his Complaint,
15 Plaintiff requested quiet title to the property located at 4233 Hebron Drive, Las Vegas, NV
16 89147. (Id. at ¶ 31). On February 19, 2015, the Court dismissed the Complaint with prejudice.
17 (Order, ECF No. 27). In the instant Motion, Defendants request that the lis pendens recorded
18 against the disputed property be expunged.

19 Upon a motion, the Court must dissolve a lis pendens if the recording party fails to
20 demonstrate (a) a likelihood of prevailing in the action or (b) a fair chance of success and
21 serious hardship that could result from a transfer of the property. Nev. Rev. Stat. 14.015(3); see
22 also Levinson v. Eighth Judicial Dist. Court, 857 P.2d 18, 20-21 (Nev. 1993).

23 Here, Plaintiff has failed to file a Response, despite the fact that the deadline expired on
24 July 6, 2015. Thus, pursuant to Local Rule 7-2(d), the Court finds that Plaintiff has consented
25 to the granting of the Motion. See D. Nev. R. 7-2(d) (“The failure of an opposing party to file

1 points and authorities in response to any motion shall constitute a consent to the granting of the
2 motion.”). Moreover, the Court finds that expunction of the *lis pendens* is warranted because
3 all of Plaintiff’s claims have been dismissed with prejudice. *See, e.g., Wensley v. First Nat.*
4 *Bank of Nevada*, 874 F. Supp. 2d 957, 968 (D. Nev. 2012) (expunging a *lis pendens* after
5 dismissing a complaint with prejudice).

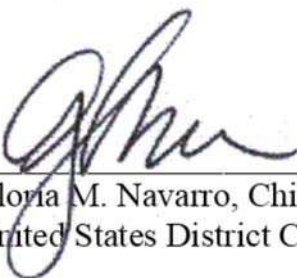
6 Accordingly,

7 **IT IS HEREBY ORDERED** that the Motion to Expunge, (ECF No. 29), is
8 **GRANTED.**

9 **IT IS FURTHER ORDERED** that the notice of *lis pendens* filed and recorded by or on
10 behalf of Plaintiff Philip Shum upon the real property located at 4233 Hebron Drive, Las
11 Vegas, NV 89147 (APN # 163-22-112-010) with the Clark County Recorder’s Office as
12 instrument number 201405220002150 is hereby cancelled and expunged.

13 **IT IS FURTHER ORDERED** that Defendants shall record a copy of this Order with
14 the Clark County Recorder’s Office within seven (7) days of its issuance.

15 **DATED** this 28th day of July, 2015.

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20 Gloria M. Navarro, Chief Judge
21 United States District Court
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