

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ICESTONE, LLC,

Plaintiff,

-against-

MATEC, S.R.L., EUROSTONE MACHINE,
and PYRAMID SUPPLY, INC.,

Defendants.

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AMON, Chief United States District Judge.

NOT FOR PUBLICATION

ORDER

09-cv-1292 (CBA) (VVP)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ AUG 14 2012 ★

BROOKLYN OFFICE

Before this Court is a Report and Recommendation (“R&R”) from Magistrate Judge Viktor Pohorelsky on plaintiff Icestone, LLC’s renewed motion for entry of final judgment by default against MATEC, the sole remaining defendant in this action. This Court referred plaintiff’s initial motion for entry of default judgment against MATEC to Judge Pohorelsky on November 9, 2010. On September 26, 2011, the Court adopted Judge Pohorelsky’s R&R dated September 9, 2011, which found that although Icestone had established liability against MATEC for breach of contract, it had not sufficiently established damages. Consequently, the Court denied plaintiff’s motion for entry of judgment by default without prejudice to a renewed motion that included certain requested information to support plaintiff’s damages claims.

As of January 17, 2012, Icestone had not taken any further action in this matter, and so the Court directed plaintiff to show cause why the action should not be dismissed for failure to prosecute. Icestone responded on February 1, 2012. Upon recommendation from Judge Pohorelsky, the Court granted plaintiff a final opportunity to renew its motion for default judgment against MATEC on April 3, 2012, which Icestone did by letter dated April 23, 2012. On June 14, 2012,

Judge Pohorelsky issued the instant R&R recommending that this Court grant Icestone's renewed motion for default judgment and that Icestone be awarded \$224,967.00 in damages. Neither Icestone nor MATEC has filed objections to the June 14 R&R.


Where no timely objections have been filed, a district court "need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72, Notes of Advisory Committee. Finding no clear error, the Court hereby adopts the R&R in its entirety.

Icestone's renewed motion for entry of final judgment by default against MATEC is GRANTED. Plaintiff is awarded \$224,967.00 against MATEC in damages, plus post-judgment interest to be calculated pursuant to the federal rate set forth in 28 U.S.C. § 1961, along with costs. The Clerk of Court is directed to enter judgment accordingly and to dismiss this case.

SO ORDERED.

Dated: Brooklyn, N.Y.
August 14, 2012

s/CBA


Carol Bagley Amon
Chief United States District Judge