

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PETER LaROCCO,

Plaintiff,

v.

**1:12-CV-978
(MAD/CFH)**

**JIM HINSTON, Supervisor; ALLISON, Kitchen
Manager; MAXWELL,**

Defendants.

APPEARANCES:

OF COUNSEL:

Peter LaRocco
410 Canoe Hill Road
Saugerties, New York 12477
PRO SE

MAE A. D'AGOSTINO, U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed on the 22nd day of January 2013. Following fourteen (14) days from the service thereof, the Clerk has sent me the file. Plaintiff has not filed any objections to the Report-Recommendation.¹

A litigant's failure to file objections to a magistrate judge's report and recommendation, even when that litigant is proceeding *pro se*, waives any challenge to the report on appeal. *See Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003) (holding that, "[a]s a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial

¹ The Clerk is directed to append Judge Hummel's Report-Recommendation to this decision, and familiarity is presumed. (Dkt. No. 10).

review of the point" (citation omitted)). A *pro se* litigant must be given notice of this rule; notice is sufficient if it informs the litigant that the failure to file a timely objection will result in the waiver of further judicial review and cites the pertinent statutory and civil rules authority. See *Frank v. Johnson*, 968 F.2d 298, 299 (2d Cir. 1992); *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (holding that a *pro se* party's failure to object to a report and recommendation does not waive his right to appellate review unless the report explicitly states that failure to object will preclude appellate review and specifically cites 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and former 6(e) of the Federal Rules of Civil Procedure).

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Clerk is directed to close the case.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: March 7, 2013
Albany, New York


Mae A. D'Agostino
U.S. District Judge