

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

**5:06-CV-570
(FJS/GHL)**

**ROBERT V. CASE, JUBILEE ENTERPRISES,
FREEDOM RIDGE COMPANY, SOVEREIGN
WOODS COMPANY, and FOREST RESERVE
COMPANY,**

Defendants.

APPEARANCES

OF COUNSEL

**UNITED STATES DEPARTMENT
OF JUSTICE**
555 Fourth Street, N.W.
Room 7814
Washington, D.C. 20001
Attorneys for Plaintiff

BARTHOLOMEW CIRENZA, ESQ.

**UNITED STATES DEPARTMENT
OF JUSTICE – TAX DIVISION**
Ben Franklin Station
P.O. Box 55
Washington, D.C. 20044
Attorneys for Plaintiff

LISA L. BELLAMY, ESQ.

ROBERT V. CASE
Groton, New York 13073
Defendant *pro se*

SCULLIN, Senior Judge

ORDER

In a Report-Recommendation dated August 12, 2010, Magistrate Judge Lowe reviewed in detail Defendant Case's failure to comply with legitimate discovery demands, despite the Court's

and Plaintiff's attempts to secure his compliance. *See* Dkt. No. 68 at 2-4. Magistrate Judge Lowe then reviewed the various factors that "[i]nform[] a court's decision on whether to award the ultimate sanction of striking defendant's answer[,]" *see id.* at 5-6, and concluded that "these factors weigh[ed] heavily in favor of striking defendant Case's answer and declaring him in default." *See id.* at 6. Therefore, Magistrate Judge Lowe recommended that this Court strike Defendant Case's answer to the complaint and his responses to allegations in Plaintiff's first amended complaint that previously were alleged in the original complaint, declare Defendant Case in default, and give Plaintiff permission to file a motion seeking entry of a default judgment. *See id.* at 7.

Defendant Case filed objections to these recommendations, *see* Dkt. No. 70; and Plaintiff filed a memorandum of law in response to those objections, *see* Dkt. No. 71.

Defendant Case's objections are, for the most part, a reiteration of the objections he filed in response to Magistrate Judge Lowe's April 26, 2010 Order, which this Court has previously reviewed and rejected in affirming Magistrate Judge Lowe's April 26, 2010 Order in its entirety. *See* Dkt. No. 69.

The Court has, once again, reviewed Defendant Case's objections and finds them to be without merit. A review of the record makes clear that Defendant Case has wilfully and intentionally refused to engage in discovery and has continually ignored this Court's orders. As such, the Court agrees with Magistrate Judge Lowe that the ultimate sanction of striking Defendant Case's answer and declaring him in default is appropriate and warranted in these circumstances.

Accordingly, the Court hereby

ORDERS that Magistrate Judge Lowe's August 12, 2010 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

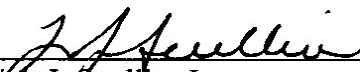
ORDERS that Defendant Case's answer to the complaint and his responses to allegations in Plaintiff's first amended complaint that previously were alleged in the original complaint, *see* Dkt. Nos. 6, 47, are **STRICKEN**; and the Court further

ORDERS that Defendant Case is in **DEFAULT**; and the Court further

ORDERS that Plaintiff shall file and serve a motion seeking entry of a default judgment within **twenty days** of the date of the Order.

IT IS SO ORDERED.

Dated: September 30, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge