

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOUSE OF DIAMONDS, INC.,

Plaintiff,

-v-

BORGIONI LLC, *et al.*,

Defendants.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/26/09

No. 08 Civ. 6760 (RJS) (RLE)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

On July 29, 2008, Plaintiff House of Diamonds, Inc. filed a complaint against Defendants Borgioni LLC, Rhonda A. Bartolacci, Tiffany A. Bartolacci, Livada Diamond Corp., J. Charles and Company, Inc. d/b/a/ J. Charles Custom Jewelers, Joseph Zrelak, and Jan Charles Chrissafis, alleging, *inter alia*, breach of contract and fraud. (*See* Doc. No. 1.) By order dated September 11, 2008, the time for Defendants to answer or otherwise respond to the complaint was extended until September 22, 2008, and by order dated October 13, 2008, the time was again extended until October 13, 2008. (*See* Doc. Nos. 3, 6.) To date, Defendants Livada Diamond Corp., J. Charles and Company, Inc. d/b/a/ J. Charles Custom Jewelers, and Jan Charles Chrissafis have failed to appear, answer, or otherwise respond to the complaint. The Defendants who did appear consented, with Plaintiff, to disposition of this case before the Honorable Ronald L. Ellis, Magistrate Judge, pursuant to § 28 U.S.C. 636(c). (*See* Doc. Nos. 10, 11, 16.)

On August 4, 2009, Judge Ellis issued a Report and Recommendation recommending that default judgment be granted as to the following three Defendants: (1) Livada Diamond Corp.; (2) J. Charles and Company, Inc. d/b/a/ J. Charles Custom Jewelers; and (3) Jan Charles Chrissafis.¹

¹ As noted, the appearing parties have consented to disposition of this case before Judge Ellis, pursuant to § 28 U.S.C. 636(c). However, the three Defendants who have not appeared have not so consented, and so this matter properly comes before this Court as a Report and Recommendation from Judge Ellis.

In the Report and Recommendation, Judge Ellis advised the parties that failure to file timely objections within ten days from service of the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After conducting a thorough review of the record, the Court finds that Judge Ellis's well-reasoned and persuasive Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report and Recommendation in its entirety. For the reasons set forth in the Report and Recommendation, the Court orders that default judgment be entered against Livada Diamond Corp., J. Charles and Company, Inc. d/b/a/ J. Charles Custom Jewelers, and Jan Charles Chrissafis.

SO ORDERED.

Dated: August 26, 2009
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE