

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

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GULF COAST BANK AND TRUST CO., :
: Plaintiff, :
: :
: -against- :
: :
ASESD, LLC, NORMAN KAISH, and : Plaintiff, :
LEONARD TAUB, : :
: Defendants. :
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11 Civ. 5023 (RMB) (RLE)

ORDER**I. Background**

The substantive and procedural background of this case are set forth in the thoughtful and comprehensive report and recommendation of Magistrate Judge Ronald L. Ellis, dated August 29, 2014 (“Report”).

Among other things, the Report recommends that Plaintiff is entitled to recover against ASESD, LLC and Norman Kaish (who have failed to answer or otherwise appear throughout this case) principal and interest under a promissory note, dated December 11, 2006, as well as attorneys’ fees and costs, and post-judgment interest. (Report at 8, 11.) Specifically, Judge Ellis recommended an award consisting of: (1) \$211,351.40 in unpaid principal; (2) \$167,482.19 in unpaid interest; and (3) \$67,863.94 in attorneys’ fees and costs. (*Id.* at 8, 11.)

The Report advised that “the parties shall have fourteen (14) days after being served with a copy of the recommended disposition to file written objections to this Report and Recommendation,” and “[f]ailure to file timely objections shall constitute a waiver of those objections.” (*Id.* at 12.) To date, no party has filed objections to the Report.

For the reasons set forth below, the Court adopts the recommendations of the Report. It respectfully makes a minor clerical adjustment, adding \$248.33 in interest awarded to Plaintiff.

II. Legal Standard

The Court may adopt those portions of a magistrate judge's report to which no objections have been made and which are not clearly erroneous. See Fed. R. Civ. P. 72(b); DeLeon v. Strack, 234 F.3d 84, 86–87 (2d Cir. 2000); Santana v. United States, 476 F. Supp. 2d 300, 302 (S.D.N.Y. 2007). A district judge “may accept, reject, or modify, in whole or in part, the findings and recommendations of the magistrate judge.” 28 U.S.C. § 636(b)(1); see also Fed. R. Civ. P. 72(b); DeLeon, 234 F.3d at 86–87.

III. Analysis

Having conducted a review of the Report (and applicable legal authorities), the Court finds that the Report is not clearly erroneous and is in conformity with the law. There appears, as noted, only to be a minor computational error in the Report's calculation of the interest due to Plaintiff because the number of days for which interest should be paid is 1,114 rather than 1,107 days.

Judge Ellis calculated the sums owed to Plaintiff based upon the record herein, including the complaint, affidavits dated May 30, 2012, November 14, 2012, and January 3, 2014 submitted by Plaintiff's counsel, and the exhibits appended to those affidavits, which include, among other things, the promissory note, and time sheets showing the hours worked by Plaintiff's counsel and court costs. (See Report at 7–10.)

IV. Conclusion & Order

For the reasons stated herein and therein, the Court adopts the Report. The Clerk of the Court is respectfully requested to enter judgment in favor of Plaintiff Gulf Coast Bank and Trust Co. and against ASESD, LLC and Norman Kaish jointly and severally in the total amount of \$446,945.86, as follows: \$211,351.40 for unpaid principal; \$167,730.52 for unpaid interest; and \$67,863.94 for attorneys' fees and costs. Plaintiff is also awarded post-judgment interest from the date default judgment was entered.

The Clerk of Court is also respectfully requested after entering judgment to close this case as to Defendants ASESD, LLC and Norman Kaish.

Dated: New York, New York

December 4, 2014



RICHARD M. BERMAN, U.S.D.J.