

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

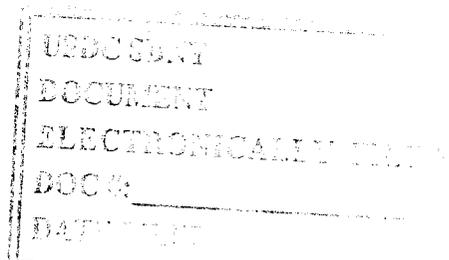
SHAMROCK POWER SALES, LLC,

Plaintiff,

v.

JOHN SCHERER, et al.,

Defendants.



Case No. 12-CV-8959 (KMK) (JCM)

ORDER ADOPTING R&R

KENNETH M. KARAS, District Judge:

On December 8, 2016, Magistrate Judge McCarthy entered a Report & Recommendation (the "R&R") recommending that this Court award Plaintiff (1) \$99,824.93 for its breach of fiduciary duty claim, (2) \$118,532.30 for its faithless servant claim, (3) \$51,557.80 for its misappropriation of trade secrets claim, (4) \$223,951.01 in punitive damages, and (5) prejudgment interest at 9% per annum from January 5, 2015 to the date judgment is entered. (R&R 39 (Dkt. No. 157).) Judge McCarthy also recommended that this Court award no damages for fraud in the inducement, unjust enrichment, or contempt; deny Plaintiff's request for a permanent injunction and its Motion to Strike; and deny the requests set forth in Defendants' letter of July 13, 2016. (*Id.*) In the thorough R&R, Judge McCarthy provided notice that objections to the R&R were due within 14 days and that failure to object would preclude later appellate review of any order of judgment that will be entered. (*Id.* at 40.) No objections were filed.

Because no objections have been filed, the Court reviews the R&R only for "clear error on the face of the record." *Dow Jones & Co., Inc. v. Real-Time Analysis & News, Ltd.*, No. 14-CV-131, 2014 WL 5002092, at \*1 (S.D.N.Y. Oct. 7, 2014); *see also Merrill Lynch Commercial*

*Fin. Corp. v. All State Envelopes Ltd.*, No. 09-CV-785, 2010 WL 4256628, at \*1 (E.D.N.Y. Oct. 21, 2010) (same). Having reviewed the R&R for clear error and finding none, the Court adopts the R&R in its entirety.

Accordingly, it is hereby:

ORDERED that damages in favor of Plaintiff are calculated as followed:

- (1) \$99,824.93 for the breach of fiduciary duty claim;
- (2) \$118,532.30 for the faithless servant claim;
- (3) \$51,557.80 for the misappropriation of trade secrets claim;
- (4) \$223,951.01 in punitive damages; and
- (5) prejudgment interest at 9% per annum from January 5, 2015 to the date judgment is entered.

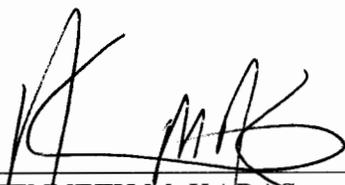
Plaintiff's request for a permanent injunction is denied. Plaintiff's Motion to Strike is denied. Defendants' request to strike is denied.

Although damages have been calculated against Defendants, the Court notes that only partial summary judgment was granted in favor of Plaintiff, and entry of judgment is therefore inappropriate at this stage. Plaintiff is to advise the Court within 14 days of the date of this Order as to whether it intends to pursue the remaining causes of action.

The Clerk of Court is respectfully requested to terminate the pending Motions, (Dkt. Nos. 115, 134).

SO ORDERED.

Dated: January 4, 2017  
White Plains, New York

  
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KENNETH M. KARAS  
UNITED STATES DISTRICT JUDGE