

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Big Red Box LLC,)
)
Plaintiff,)
)
v.)
)
Square Inc.; William Tye Grisel;)
Joe Grisel; G5 Marketing)
Solutions LLC; and John Doe)
Bank,)
)
Defendants.)
_____)

Civil Action No.: 3:18-cv-00758-JMC

AMENDED ORDER

This matter is before the court upon review of the Magistrate Judge’s Report and Recommendation (“Report”) (ECF No. 73), filed on November 27, 2018, recommending that Square Inc.’s (“Defendant”) Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) (ECF No. 42) be denied because there is a pending motion before the district court as to whether limited discovery will be permitted prior to a ruling on the Motion to Dismiss (ECF No. 66). (ECF No. 42.)

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making *de novo* determinations of those portions of the Report to which specific objections are made. *See* 28 U.S.C. § 636(b)(1). *See also* FED. R. CIV. P. 72(b)(3). In the absence of specific objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See*

Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

The parties were advised of their right to file objections to the Report. (ECF No. 73 at 4.) Neither party filed any objections to the Report.

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law and does not contain clear error. (ECF No. 73.) Therefore, the court **ACCEPTS** the Magistrate Judge’s Report and Recommendation (ECF No. 73) and **DISMISSES** Defendant’s Motion to Dismiss (ECF No. 42) without prejudice.

IT IS SO ORDERED.


United States District Judge

February 19, 2019
Columbia, South Carolina