

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

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ALLY BANK f/k/a GMAC BANK,

Plaintiff,

-against-

1ST REPUBLIC MORTGAGE BANKERS, INC., SCOTT
SISSKIND, JOHN REIMER and LENDERS ABSTRACT AND
SETTLEMENT SERVICES, INC.,

Defendants.

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ORDER

09-CV-247 (ADS) (WDW)

APPEARANCES:

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By: Michael Cardello, III, Esq., Of Counsel

SPATT, District Judge.

On January 21, 2009, the Plaintiff commenced this action against the Defendants 1st Republic Mortgage Bankers, Inc. (“1st Republic”), Scott Sisskind (“Sisskind”), John Reimer (“Reimer”) and Lenders Abstract and Settlement Services, Inc. (“Lenders Abstract,” and collectively, “the Defendants”) asserting seven causes of action and seeking a judgment of \$10,296,429.28 plus interest, late charges, fees, costs and expenses. In relevant part, the seventh cause of action alleged that Reimer “received and still possess the proceeds of certain Warehousing Advances made by [the Plaintiff] to 1st Republic,” even though “[t]he proceeds of the Warehousing Advances rightfully belong to [the Plaintiff].” (Compl., ¶¶ 63, 64.)

On February 23, 2009, 1st Republic, Sisskind and Lenders Abstract answered. However, Reimer did not answer. On October 5, 2009, the Court entered a default judgment against Reimer and referred this matter to United States Magistrate William D. Wall for an inquest as to damages, including attorneys’ fees and costs. Reimer did not oppose the entry of a default judgment against him or the Plaintiff’s motion for default damages.

On December 7, 2011, Judge Wall issued a Report and Recommendation (“the Report”), recommending that the Court (1) award the Plaintiff damages in the amount of \$8,884,398.57 against Reimer on the seventh cause of action, for conversion, but (2) deny the Plaintiff’s request

for “applicable interest and fees,” because the Plaintiff provided no basis for such an award. (Report, pgs. 1, 2, 6.) To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall’s Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Wall’s Report, it is hereby

ORDERED, that Judge Wall’s Report and Recommendation is adopted in its entirety. The Court (1) awards the Plaintiff the full amount of the Warehousing Advances in the amount of \$8,884,398.57 against the Defendant John Reimer and (2) denies the Plaintiff’s request for applicable interest and fees.

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiff as against the Defendant John Reimer as set forth above; and it is further

ORDERED, that the Plaintiff is directed to advise the Court, within ten days of the date of this Order, of the status of this case with respect to the remaining Defendants.

SO ORDERED.

Dated: Central Islip, New York
March 23, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge