UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-60907-CIV-MORENO/SELTZER

FEDERAL TRADE COMMISSION, et al.,

Plaintiffs,

vs.

JEREMY LEE MARCUS, et al.,

Defendants.
/

REPORT AND RECOMMENDATION

THIS CAUSE has come before the Court upon the Motion of Receiver Jonathan E. Perlman, Esq. Regarding Relief Defendant Teresa Duda's Failure to Turn Over Asset ("the Motion") [DE 324]. The Motion was referred to the undersigned to submit a Report and Recommendation [DE 325].

On February 27, 2019, the undersigned conducted a hearing on the Motion. The parties then entered a Stipulated Order [DE 351], which provided that the Receiver and Teresa Duda shall have until March 6, 2019, to amicably resolve the turnover of the real property located at 110 Glouchester Street, Boca Raton, Florida, 33487 ("the Property"), and if there were no resolution on or before March 6, 2019, Teresa Duda would vacate and turn over the Property to the Receiver. The Stipulated Order further stated that "[u]nless the Court is notified of any resolution or turn over of the property by Duda to the Receiver, the undersigned will recommend that the District Court issue a Writ of Possession for the Property on March 6, 2019."

The undersigned has been contacted by counsel for the Receiver and has been advised that no resolution has been met and that Duda has failed to vacate and turn over the Property to the Receiver. Accordingly, the undersigned RECOMMENDS that the Court GRANT the Motion of Receiver Jonathan E. Perlman, Esq. Regarding Relief Defendant Teresa Duda's Failure to Turn Over Asset ("the Motion") [DE 324] and issue a Writ of Possession in the form as attached hereto as Exhibit A.

The parties will have sever (7) days[1] from the date of being served with a copy of this Report and Recommendation within which to file written objections, if any, with the Honorable Federico A. Moreno, United States District Judge. Failure to file objections timely shall bar the parties from a de novo determination by the District Judge of an issue covered in the Report and shall bar the parties from attacking on appeal unobjected-to factual and legal conclusions contained in this Report except upon grounds of plain error

[1] Rule 4(b) of the Magistrate Judge Rules, Local Rules for the Southern District of Florida, requires that a party file any objections to a magistrate judge's report and recommendation within fourteen (14) days of being served "or within such other time as may be allowed by the Magistrate Judge or District Judge." S.D. Fla. L. R. (Magistrate Judge Rule 4(b)). Where exigencies exist, a court may shorten the time for filing objections. See United States v. Barney, 568 F.2d 134, 136 (9th Cir. 1978) (holding that trial court did not err in providing parties less than the [then-applicable] full ten-day period to file objections to the magistrate's report and recommendation where exigencies existed, stating that the [then- applicable] "[t]en days is a maximum, not a minimum"); Hispanic Counseling Center, Inc. v. Incorporated Village of Hempstead, 237 F. Supp. 2d 284, 290 (E.D.N.Y. 2002) (court may shorten time period for filing objections where exigencies exist). Exigencies exist in this case because Duda has wrongfully been in possession of the Property at the expense of the Receiver since September 27, 2018, when she executed a Special Warranty Deed for the Property in favor of the Receiver [DE 324].

if necessary in the interest of justice. See 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140, 149 (1985); Henley v. Johnson, 885 F.2d 790, 794 (1989); 11th Cir. R. 3-1 (2016).

DONE AND SUBMITTED in Chambers, Fort Lauderdale, Florida, this 6th day of March 2019.

BARRY S. SELTZER
United States Magistrate Judge

Copies furnished via CM/ECF to:
Hon. Federico A. Moreno
Counsel of record

Teresa Duda
110 Glouchester Street
Boca Raton, FL 33487

Eleni C. Panaridis, Esq.
2385 NW Executive Center Drive
Suite 100
Boca Raton, FL 33431

EXHIBIT A

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WRIT OF POSSESSION

TO THE UNITED STATES MARSHAL
FOR THE SOUTHERN DISTRICT OF FLORIDA

YOU ARE COMMANDED to remove all persons from the following described property at 100 Glouchester St., Boca Raton, FL 33487, Palm Beach County, Florida, and to put Jonathan E. Perlman, as Receiver, in possession of it.

DATED this day of March 2019.

HONORABLE FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF