

**FILED**

IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF TEXAS  
 AUSTIN DIVISION

**2016 AUG 31 AM 11:34**

CLERK US DISTRICT COURT  
 WESTERN DISTRICT OF TEXAS  
 BY                      DEPUTY

THOMAS L. TAYLOR, III IN HIS  
 CAPACITY AS COURT-APPOINTED  
 RECEIVER FOR ROBERT A. HELMS,  
 ET AL.

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PLAINTIFF,

CAUSE NO. 1:15-CV-648-LY

V.

GRADY H. VAUGHN, III,  
 DEFENDANT.

**ORDER**

Before the court are Receiver's Motion for Partial Summary Judgment filed November 12, 2015 (Clerk's Doc. No. 7), Appendix in Support of Receiver's Motion for Partial Summary Judgment Against Defendant Grady H. Vaughn III filed November 12, 2015 (Clerk's Doc. No. 8), Response to Receiver[']s Motion for Partial Summary Judgment Against Defendant Grady H. Vaughn III filed December 15, 2015 (Clerk's Doc. No. 15), Receiver's Reply in Support of His Motion for Partial Summary Judgment Against Defendant Grady H. Vaughn III filed January 8, 2016 (Clerk's Doc. No. 20), and Appendix in Support of Receiver's Reply in Support of Motion for Partial Summary Judgment Against Defendant Grady H. Vaughn III filed January 8, 2016 (Clerk's Doc. No. 21).

The motion was referred to the United States Magistrate Judge for findings and recommendations. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72; Loc. R. W.D. Tex. App. C, R. 1(d). The magistrate judge filed his Report and Recommendation on July 25, 2016 (Clerk's Doc. No. 27), recommending that this court grant the motion.

A party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within 14 days after being served with a copy of the

Report and Recommendation, and thereby secure a *de novo* review by the District Court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*). The record reflects that the parties received the Report and Recommendation on July 25, 2016, and Defendant Grady Vaughn timely filed objections on August 8, 2016 (Clerk's Doc. No. 28). Plaintiff filed a response to Defendant's objections on August 22, 2016 (Clerk's Doc. No. 29).

In light of the objections, the court has undertaken a *de novo* review of the motion, response, reply, objections, applicable law, and entire record in the cause. The court is of the opinion that the objections do not raise any issues that were not adequately addressed in the Report and Recommendation. Therefore, finding no error, the court will accept the Report and Recommendation as filed for substantially the reasons stated therein.

**IT IS ORDERED** that Defendant's Objections to Report and Recommendation of the United States Magistrate Judge (Clerk's Doc. No. 28) are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation of the United States Magistrate Judge filed in this cause (Clerk's Doc. No. 27) is hereby **ACCEPTED** and **ADOPTED** by the court.

**IT IS FURTHER ORDERED** that Receiver's Motion for Partial Summary Judgment (Clerk's Doc. No. 7) is **GRANTED**.

**IT IS FURTHER ORDERED** that interlocutory judgment is rendered in favor of the Receiver on his claims of fraudulent transfer under the Texas Uniform Fraudulent Transfer Act § 24.005(a)(1) and unjust enrichment, in the amount of \$442,254.35.

**IT IS FURTHER ORDERED** that the Receiver shall recover prejudgment interest upon the court's rendering final judgment in this cause. Prejudgment interest shall accrue at a rate of 5% per year beginning on December 15, 2014<sup>1</sup>, until the day preceding the date judgment is rendered. *See* Tex. Fin. Code § 304.104 (“[P]rejudgment interest accrues on the amount of a judgment during the period beginning on the earlier of the 180th day after the date the defendant receives written notice of a claim or the date the suit is filed and ending on the day preceding the date judgment is rendered.”); *see also Ventling v. Johnson*, 466 S.W.3d 143, 153 (Tex. 2015).

SIGNED this 31<sup>st</sup> day of August, 2016.

  
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LEE YZAKEL  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Receiver first gave Vaughn notice of the Receiver's fraudulent transfer claim against Vaughn on June 18, 2014.