

# LEWIS & LIN LLC

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September 13, 2017

**By ECF**

Hon. Ronnie Abrams  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

*BMaddox Enterprises v. Oskouie, et al.*, No. 17-CV-1889 (RA)(HBP)

Dear Judge Abrams:

As Your Honor is aware, we represent defendants-counterclaimants in this case. Please accept this short letter in response to plaintiff's memorandum opposing defendants' motion to vacate the temporary restraining order (Doc. 59), which we construe to be plaintiff's objections to Magistrate Judge Pitman's Report and Recommendation to dissolve the Asset Restraining Order currently in place (Doc. 58) ("R&R"). Should the Court require a full brief on this matter, we would gladly provide same.

At the outset, plaintiff's memorandum has not stated the relevant standard of review. Because the motion under consideration seeks only to dissolve a temporary restraining order, and not to dispose of any party's claim or defense, Judge Pitman's R&R may only be set aside if it is "clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A).

Even if the R&R concerned a dispositive motion, however, a party must make "specific written objections to the proposed findings and recommendations" in order to trigger de novo review—and only as to "those portions of the report or specified proposed findings or recommendations to which objection is made." Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(B). "When a party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error." *Terry v. Corp. for Nat'l & Cmty. Serv.*, No. 15-CV-9660 (RA), 2017 WL 3448015 (S.D.N.Y. Aug. 11, 2017), at \*1 (citations omitted). "[O]bjections that are merely perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original [papers] will not suffice to invoke de novo review." *Id.*

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Accordingly, defendants will defer to the analysis presented by Judge Pitman in his well-reasoned R&R.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. Lin", with a long horizontal flourish extending to the right.

David D. Lin

cc: Anderson J. Duff, Esq. (by ECF)