

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ECITY MARKET, INC. doing business)
as PROJECT MANAGEMENT)
ACADEMY,)
)
Plaintiff/Counterclaim Defendants,) Case No. 1:13-cv-01622-TWP-DML
)
vs.)
)
VAUGHN SCOTT BURCH and)
GRAYWOOD CONSULTING GROUP,)
INC.,)
)
Defendants/Counterclaimants.)

Report and Recommendation Regarding Claims By and Against
Defendant Vaughn Scott Burch

On May 8, 2015, the court issued its order (Dkt. 32) requiring defendant and counterclaimant Vaughn Scott Burch to show cause why his counterclaim should not be dismissed with prejudice because of his failure to prosecute, under Local Rule 41-1. Mr. Burch did not respond to the court's show cause order. The court's order was mailed to the address Mr. Burch supplied to the court (an address in Leesburg, Virginia) and to which entries were mailed (and not returned) in February and June 2014. (*See, e.g.*, Dkt. 23, Dkt. 25, Dkt. 26). The court also used a second address (in Sterling, Virginia) it located through an internet search. The court's mailing to the Leesburg address was returned by the post office with a notice that the addressee had moved and the mailing could not be forwarded. The mailing to the Sterling address was not returned. Mr. Burch was responsible for notifying the court of

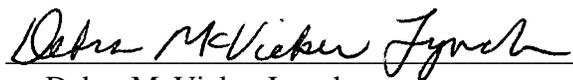
changes to his address for receiving orders or other notifications from the court or parties. His failure to alert the court to an address change and any lack of notice of court orders because of that failure does not provide justification for failing to respond to the court's show cause order. Moreover, it appears Mr. Burch did receive the show cause order at the Sterling address. The order was also available to him through PACER.

Because Mr. Burch has failed to prosecute his counterclaims, the Magistrate Judge recommends to the District Judge that Mr. Burch's counterclaims be **DISMISSED WITH PREJUDICE**.

Any objections to the Magistrate Judge's Report and Recommendation must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Failure to file objections within fourteen days will constitute a waiver of subsequent review absent a showing of good cause for such failure.

IT IS SO RECOMMENDED.

Dated: June 29, 2015



Debra McVicker Lynch
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record by email through the court's ECF system

Via United States mail:

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