

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

PATCO CONSTRUCTION)	
COMPANY, INC.,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 09-503-P-H
)	
PEOPLES UNITED BANK)	
DBA OCEAN BANK,)	
)	
DEFENDANT)	

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On May 27, 2011, the United States Magistrate Judge filed with the court, with copies to counsel, his Recommended Decision on Cross-Motions for Summary Judgment. The plaintiff filed an objection to the Recommended Decision on June 13, 2011. Oral argument was held on August 3, 2011.

On the issue whether Patco agreed to the Bank’s security procedures, I do not rely on the Magistrate Judge’s conclusion that Patco conceded the point by not addressing the issue in its Reply. The parties filed simultaneous cross-motions for summary judgment and Patco did address the issue in its initial filing. That was enough to preserve it. I do agree with the Magistrate Judge, however, that the record supports the conclusion that Patco did agree.

I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the

recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The Bank's motion for summary judgment as to all counts of Patco's complaint is **GRANTED**. Patco's cross-motion for summary judgment on Count I is **DENIED**. Patco's and the Bank's motions to exclude expert testimony and the Bank's motion to strike Patco's jury demand are **MOOT**.

SO ORDERED.

DATED THIS 4TH DAY OF AUGUST, 2011

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE