

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

F.T. INTERNATIONAL, LTD. : CIVIL ACTION  
: :  
v. : :  
: :  
THOMAS E. MASON and : :  
MARSHLAND, LTD. : No. 00-5004

MEMORANDUM ORDER and ADJUDICATION OF CONTEMPT

Plaintiff has asserted claims against defendants for RICO violations, fraud, conversion and unjust enrichment. Plaintiff avers that it was fraudulently induced to commit \$15,000,000 to an investment scheme by defendant Mason and defendant Marshland, which he completely controls, who then misappropriated plaintiff's funds and transferred at least \$5,000,000 of them to an offshore bank.

Defendants ultimately stipulated to the entry of an order on October 20, 2000 which, as modified by order of December 5, 2000, required them to restore a substantial portion of the alienated funds to plaintiff by a specified date. When defendants failed to honor that order, plaintiff moved to hold defendants in contempt. Contempt hearings scheduled by the court were continued four times on the request of counsel. The requests were predicated on assurances that defendants were endeavoring to comply with the court order and would shortly overcome various stated obstacles purportedly encountered in effectuating restitution.

The court had also ordered defendant Mason to submit to a deposition and had ordered both defendants to produce various documents. It appears that defendants also failed to comply with these orders.

A contempt hearing was finally held on March 16, 2001. Defendants conceded the existence of a valid court order, their knowledge of the order and their failure to obey it. Plaintiff thus readily established a prima facie case of contempt by clear and convincing evidence. See Roe v. Operation Rescue, 54 F.3d 133, 137 (3d Cir. 1995). The hearing then focused on defendants' attempt to demonstrate that they have acted in good faith to make all reasonable efforts to comply with the order. See U.S. v. Rylander, 460 U.S. 752, 755 (1983); Harris v. City of Philadelphia, 47 F.3d 1311, 1324 (3d Cir. 1995).

The only evidence presented of reasonable efforts was the testimony of Mr. Mason. The essence of that testimony was as follows.

Mr. Mason is an "international banking consultant." He obtains investors for an "international trading program" which makes funds available to foreign governments for social programs and capital projects for which Mr. Mason receives commissions. The program provides a very high rate of return. Many large U.S. banks are invested in the program but none would ever confirm the existence of the program for fear of losing depositors to whom

they pay lower rates of interest. The Federal Reserve Bank has falsely certified that no such programs exist to protect U.S. banks.

Although Mr. Mason is approached daily by interested investors, he accepts only one in a thousand whom he deems qualified for the program. Although plaintiff's \$15,000,000 was transferred by Mr. Mason to accounts under defendants' control, the money was used to obtain a line of credit which was used to effectuate the investment in the program. It is now impossible to obtain a return of this money as all \$500,000,000 in the program have been "frozen" by the recipient nations or their central banks. Mr. Mason is confident that investors will eventually get their initial investments back but does not know when or whether investors will receive the promised profit.

Defendants intended to honor the court order to repay \$7,500,000 with substitute funds to be "loaned" to them by the investment program. The program director assured Mr. Mason that the necessary funds would be made available imminently. Mr. Mason has talked to the program director "daily" regarding the receipt of these funds. The program director finally advised Mr. Mason the afternoon before the hearing that the \$7,500,000 was now on deposit in U.S. banks and that three cashiers checks for \$2,500,000 each would be issued to plaintiff on or shortly after March 22, 2001.

Mr. Mason has no documentation regarding the program or his relationship with it. He has no documentation reflecting the deposit of the \$7,500,000 in U.S. banks. He is prohibited by a confidentiality agreement from revealing the name of the program director. He does not have a copy of that agreement. Only when directed to do so by the court did Mr. Mason identify the program director as "J. Cordona" whose business address he could not recall. Mr. Mason did have Mr. Cordon's telephone number with him. He testified that the number is 914/912-8030. When that number is dialed, the caller is advised by a recorded message that "the number you have dialed is incorrect -- please check the number and try again."

Other than Mr. Mason's discussions with the program director about the loan of \$7,500,000, defendants undertook no effort to attempt to comply with the court order.

Mr. Mason's testimony is incredible. The court gravely doubts that any of plaintiff's \$15,000,000 was invested in an international trading program or that such program exists. Moreover, if they were truly making all reasonable efforts to comply, defendants could have utilized the \$3,000,000 in an account of Marshland in a bank on the island of Dominica to at least make a good faith partial payment. Mr. Mason testified that this money "is not available." When asked why, his only response was "it just isn't."

The court determined at the conclusion of the hearing that defendants are in contempt for failure to obey the order of October 20, 2000, as modified on December 5, 2000. The court noted that defendants failure to provide documents and Mr. Mason's failure to submit to full deposition as directed may also constitute contempt. The court gave defendants until 4:00 p.m. on March 21, 2001 to purge themselves of contempt or face coercive sanctions. The court indicated that it would accept competent verification that the funds in Dominica or from any source were in the process of transfer to plaintiff. The court also instructed Mr. Mason to submit forthwith to deposition and produce the documents requested and subpoenaed by plaintiff or submit an affidavit accounting for the unavailability of these documents which any business or businessman would be expected to maintain. The court granted plaintiff's request for fees and costs necessitated by the prosecution of the contempt motion.

**ACCORDINGLY**, this day of March, 2001, consistent with the court's oral ruling following a hearing on March 16, 2001, **IT IS HEREBY ORDERED** that plaintiff's Motion for Contempt is **GRANTED** and defendants are adjudged in contempt of court for their failure to comply with the order of October 20, 2000 as modified by order of December 5, 2000; the contempt hearing is recessed until March 21, 2001 at 4:00 p.m. at which time defendants shall show cause why coercive sanctions should not be

imposed and by which time defendant Mason shall submit to deposition and produce all documents of defendants requested by plaintiff or account for their absence by sworn affidavit; and, defendants shall reimburse plaintiff for those costs and attorney fees reasonably incurred by plaintiff for the prosecution of its contempt motion. Defendants shall have ten days from the receipt of plaintiff's statement of costs and fees with supporting records and affidavits to present any challenge to the amount claimed.

**BY THE COURT:**

---

**JAY C. WALDMAN, J.**