

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-MC-093-GCM-DCK

THOMAS E. PEREZ,)
SECRETARY OF LABOR,)
UNITED STATES DEPARTMENT OF LABOR,)
)
Plaintiff,)
)
v.)
)
UNITED ASSOCIATES LIGHTING CORP.)
and ROSCOE WAGONER)
)
Defendants.)

ORDER OF CIVIL CONTEMPT AND COERCIVE DAILY FINE

This matter is before the Court upon review of Plaintiff's Petition for Adjudication as to United Associates Lightning Corporation and Roscoe Wagoner in Civil Contempt (Document No. 7). The Court, having considered Plaintiff's Petition, the pleadings and evidence of record, and the applicable law, makes the following findings of fact and conclusions of law:

1. This Court issued an order on July 15, 2015 granting Plaintiff's Petition to Enforce Administrative Subpoena *Duces Tecum* and *Ad Testificadum* Issued by the Employee Benefits Security Administration (Document No. 1) filed May 29, 2015, and directing Defendants to fully respond or show cause why it should not be required to produce the documents identified in the subpoena *duces tecum* on or before July 31, 2015.
2. On July 26, 2015 Plaintiff served a copy of the July 15, 2015 Order on Defendants.
3. After Defendants did not respond to the July 15, 2015 Order, Plaintiff filed his Petition for Adjudication of Respondents in Civil Contempt on October 14, 2015.

4. This Court issued an order on November 3, 2015 directing Defendants to appear before the Court on December 3, 2015 at 2:30 p.m. to show cause as to why they should not be held in civil contempt. (Document No. 8).
5. On November 12, 2015 Plaintiff served a copy of the November 3, 2015 Order on Defendants.
6. On December 3, 2015 at 2:30 p.m., the Court held a show cause hearing. No one appeared on behalf of Defendants.
7. In open violation of the July 15 and November 3 orders, Defendants have not provided any of the documents identified in the subpoena. None of the Defendants appeared before the Court on December 3, 2015 to show cause why the court should not find them in contempt for those violations.
8. 18 U.S.C. §401(3) provides that “A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as . . . (3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.”
9. Defendants’ willful and deliberate refusal to comply with the Judgment and their failure to appear before the Court as required constitute contempt pursuant to 18 U.S.C. § 401(3).

WHEREFORE, it appearing to the Court Defendants United Associates Lighting Corporation and Roscoe Wagoner have failed or refused to comply with this Court’s Orders, the Court finds Defendants are in civil contempt and ORDERS Defendants to pay a coercive fine of \$100 per day until Respondents purge themselves of contempt. The Court further orders Respondents to pay Plaintiff’s attorney’s fees in the amount of

\$1,400.00. Respondents are hereby noticed that if they do not comply with the Court's orders by **January 1, 2016**, the Court will take further coercive action including ordering the incarceration of Respondents until they purge themselves of contempt.

Upon receipt of the documents Plaintiff is ordered to assess the total fine from Respondents, including attorney's fees and the daily coercive fine, and certify receipt of the documents to this Court. Plaintiff is ordered to alert the court should Defendants not purge themselves of contempt by January 1, 2016,

Signed: December 8, 2015

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

