

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

In the matter of:)	
)	
)	
ADMINISTRATIVE SEARCH WARRANT)	Case No. 15-09010-MC-W-BP
ISSUED FOR THE WORKPLACE OF)	
MARTIN FOUNDRY COMPANY, INC.)	
)	

ORDER AND JUDGMENT

This matter comes before the Court on the Stipulation filed by the United States and the Secretary of Labor (the “Government”) and Martin Foundry Company, Inc.; Darrell Stone; Robert J. Lockett II; Ann Fox; and William Alpert (the “Respondents”). (Doc. 18.)

On April 6, 2015, Judge Maughmer issued an Administrative Search Warrant directed to Barbara Theriot, Area Director, Occupational Safety and Health Administration (“OSHA”), Kansas City Area Office, to inspect and investigate the workplace of Martin Foundry Company, Inc. at 1510 Crystal Avenue, Kansas City, MO 64126, for alleged violations of 29 C.F.R. § 1910.1025. (*See* Doc. 2.) Thereafter, the Government filed a Motion for Certification of Contempt requesting certification to a district judge of facts showing contempt of the Administrative Search Warrant and requesting an order requiring Martin Foundry Company, its vice-president and co-owner Darrell Stone, and Compliance Professionals, Inc. safety consultants Robert J. Lockett, III, Ann Fox, and William Alpert to appear before a district judge to show cause as to why they should not be held in civil contempt for disobedience and resistance to the Court’s Administrative Search Warrant. (Doc. 1.)

Pursuant to 28 U.S.C. § 636(e)(6)(B), Judge Maughmer certified the facts in this case showing that Martin Foundry’s vice-president and co-owner, Darrell Stone, as well as Martin

Foundry's agents Robert J. Lockett, III, Ann Fox, and William Alpert, individuals employed by Compliance Professionals, Inc., intervened and interfered with the execution the warrant. (Doc. 2.) Additionally, Judge Maughmer recommended the Court enter an Order to Show Cause directing Respondents to show why they should not be held in contempt of the Court's Administrative Search Warrant. (*Id.*)

Consistent with Judge Maughmer's recommendation, the Court entered an Order directing the parties to appear for a hearing regarding the alleged contempt. (Doc. 8.) The parties then filed the instant Stipulation. (Doc. 18.)

Upon review of the record and the evidence in this case, the Court hereby **FINDS** and **ORDERS** as follows:

1. The facts certified pursuant to 28 U.S.C. 636(e)(6)(B) by Judge Maughmer, (*see* Doc. 2), have been proved beyond a reasonable doubt. The conduct of Respondents Martin Foundry and Darrell Stone in resisting and disobeying the Administrative Search Warrant was willful, that is, that each of them deliberately and intentionally resisted and disobeyed the warrant. The conduct of Respondents Robert J. Lockett III, Ann Fox, and William Alpert in resisting the execution of the Administrative Search Warrant was willful and they deliberately and intentionally advised, aided and abetted Darrell Stone in resisting and disobeying the Administrative Search Warrant.

2. On April 24, 2015, OSHA Compliance Officers Garcia, Walling and Robinson returned to Martin Foundry Company to complete the onsite inspection authorized by the warrant. They arrived at 5:30 a.m. The company was cooperative during the inspection and appeared to be running normal operations including running the brass furnaces. The Compliance Officers performed personal sampling on 7 employees and all of the certified safety and health

officials for the full shift. The Compliance Officers were allowed access to all areas of the facility and were able to complete the portion of the investigation requiring them to be onsite at the facility.

On April 22, 2015, attorneys for the Department of Labor took the sworn statements of three on management employees of Martin Foundry. During the statements, it was determined that prior to OSHA being allowed to complete its on-site inspection, there had been alterations to the workplace, including Respondent Ann Fox wiping down a picnic table used by employees to eat their lunch – a picnic table that was located inside the foundry and possibly contaminated with lead dust – and Respondent Ann Fox cleaning the interior of an employee refrigerator in which employees stored their lunches, similarly located inside of the foundry and possibly contaminated with lead. The full extent of the alterations to the workplace are unknown at this time, and it may be impossible to know the full extent of the alterations done or caused to be done by Respondents.

OSHA served a subpoena duces tecum on April 8, 2015, and received documents in response. A second subpoena was served on May 4, 2015. Martin Foundry's owners, Darrell Stone and Julie Stone have agreed to be available for sworn statements at a mutually agreeable time in the future.

3. The Department of Labor is entitled to compensatory relief for civil contempt of the Administrative Search Warrant by Respondents as follows:

Additional costs incurred by OSHA, Kansas City Area Office due to Respondents' failure to obey and comply with the Administrative Search Warrant in the amount of \$4,287.00;

Additional costs incurred by the Office of the Solicitor, Department of Labor, due to Respondents' failure to obey and comply with the Administrative Search Warrant and the subsequent legal proceedings in the amount of \$6,491.00;

Respondents are jointly and severally liable for compensation to the Department of Labor (OSHA and the Office of the Solicitor) in the total amount of \$10,778.00.

4. Respondents have been placed on notice, as required by Fed. R. Crim. P. 42(a)(1), of the time and place of trial and the essential facts constituting criminal contempt of the Administrative Search Warrant. Respondents are represented by counsel and they have been allowed a reasonable time to prepare a defense. Respondents waived a hearing and stipulated that each may be found to have committed criminal contempt by resisting and disobeying a lawful order of the Court, that is, the Administrative Search Warrant issued by United States Magistrate Judge John T. Maughmer on April 6, 2015. Accordingly, Respondents are found to have committed criminal contempt for the aforementioned conduct.

5. Fines for the criminal contempt of the Administrative Search Warrant shall be imposed on each Respondent as follows: Martin Foundry, \$1,000; Darrell Stone, \$1,000; Robert J. Lockett III, \$2,000; Ann Fox, \$2,000; and William Alpert, \$2,000.

6. Accordingly, Respondents are found to have committed civil contempt of the Administrative Search Warrant issued by United States Magistrate Judge John T. Maughmer on April 6, 2015, and thereby caused OSHA and the Office of the Solicitor, Department of Labor, to incur costs in the total amount of \$10,778.00. Respondents are hereby **ORDERED** to pay the total sum of \$10,778.00 to the United States Department of Justice, at the Office of the United States Attorney, 400 E. 9th St., Suite 5510, Kansas City, Missouri 64106, within 30 days of the entry of judgment.

Respondents are found to have committed criminal contempt of the Administrative Search Warrant issued by United States Magistrate Judge John T. Maughmer on April 6, 2015, and are hereby **ORDERED** to pay fines in the following amounts to the Clerk of the Court within 30 days of the entry of this judgment: Martin Foundry, \$1,000; Darrell Stone, \$1,000; Robert J. Lockett III, \$2,000; Ann Fox, \$2,000; and William Alpert, \$2,000.

Upon payment of these costs and fines, the parties may move the Court to close or dismiss this case.

IT IS SO ORDERED.

/s/ Beth Phillips
BETH PHILLIPS, JUDGE
UNITED STATES DISTRICT COURT

DATE: May 20, 2015