

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

IN RE: APPOINTMENT OF A SPECIAL
MASTER TO ENFORCE AN ORDER OF THE
ELEVENTH CIRCUIT COURT OF APPEALS
IN CASE NO. 19-13261-J

OSHA, U.S. DEPARTMENT OF LABOR,)	
Petitioner,)	
)	
v.)	Case No.: 3:20-mc-10-J-20
)	
GREAT WHITE CONSTRUCTION, INC.,)	
TRAVIS SLAUGHTER, and FLORIDA)	
ROOFING EXPERTS, INC,)	
Respondents,)	
)	

**PETITIONER’S PROPOSED REPORT
OF THE SPECIAL MASTER TO
THE ELEVENTH CIRCUIT COURT OF APPEALS**

The Secretary of Labor, U.S. Department of Labor, (“the Secretary”) hereby submits this Proposed Report of the Special Master to the Eleventh Circuit Court of Appeals as requested by the Special Master’s October 6, 2021 Order. DN 42:

PROPOSED REPORT OF THE SPECIAL MASTER

Since the Eleventh Circuit Court of Appeals appointed this Special Master on June 9, 2020 (Case No. 19-13261-J, DN 17,) Respondents Florida Roofing Experts, Inc., Great White Construction, Inc., and their Owner, Travis Slaughter (collectively “Respondents”) have made no attempt to purge themselves of the contempt found

by the Eleventh Circuit. Because Respondents remain in contempt, the only outstanding issue to be addressed is the appropriate coercive sanctions to achieve compliance with the Eleventh Circuit's Orders.

To date, Respondents have failed to pay any amount toward the \$2,202,049.91 ordered by the Eleventh Circuit, so it is doubtful that additional financial penalties would coerce them to comply with the contempt orders. For the reasons set forth below, this Court recommends that the Eleventh Circuit grant Petitioner's Motion to Set Aside Fraudulent Transfers and order the incarceration of Mr. Slaughter until such time he complies with the Eleventh Circuit's Order by paying the \$2,202,049.91 amount ordered, or (a) showing cause why he is unable to do so, and (b) stating with specificity the amount he is able to pay and the timeframe within which he will pay it, and the reasons for his proposal.

I. Background.

A. The Eleventh Circuit Issues Multiple Summary Enforcement Orders Against Respondents.

Respondents had an extensive history of non-compliance with OSHA standards. Between September 17, 2013, and November 5, 2016, OSHA inspected Respondent Great White Construction, Inc. ("Great White") ten times and cited the employer for seventeen violations, many for failing to protect employees from falling more than six feet to a lower level ("2013-2016 Citations"). OSHA assessed

penalties for these violations totaling \$678,339.41. In February 2017, OSHA inspected two Great White job sites and issued two citations for multiple instances of failing to protect employees from falling more than six feet to a lower level, among other things (“2017 Citations”). OSHA assessed \$1,523,710 in penalties for these violations. Great White received but did not contest any of these Citations, and thus all twelve became final orders of the Occupational Safety and Health Review Commission. Great White failed to provide abatement documentation and has not paid the civil penalties assessed. Total unpaid penalties for all of the citations is \$2,202,049.41, collectively, plus interest and fees.

On August 17, 2017, the Secretary petitioned the United States Court of Appeals for the Eleventh Circuit for an order pursuant to Section 11(b) of the Occupational Safety and Health Act of 1970 (“OSH Act”), 29 U.S.C. §§ 651, 660(b), seeking summary enforcement of the ten Commission final orders related to the 2013-2016 Citations. No. 17-13711, DN 1. On December 28, 2017, the Secretary petitioned the Eleventh Circuit for an order pursuant to Section 11(b) of the OSH Act seeking summary enforcement of the two Commission final orders related to the 2017 Citations. No. 17-15760, DN 1.

On October 2, 2017, the Eleventh Circuit Court of Appeals granted the Secretary’s application for summary enforcement of ten (10) final orders that had been issued by the Occupational Safety and Health Review Commission against

Respondent Great White Construction, Inc. subsequent to the 2013-2016 Citations. No. 17-13711, DN 7.

On June 5, 2018, the Eleventh Circuit Court of Appeals granted a second application by the Secretary, pursuant to Section 11(b) of the OSH Act, for summary enforcement of two (2) additional final orders that had been issued by the Occupational Safety and Health Review Commission against Respondent Great White Construction, Inc. subsequent to the 2017 Citations. No. 17-15760, DN 11.

B. The Eleventh Circuit Finds Respondents in Contempt.

On January 3, 2020, the Eleventh Circuit Court of Appeals held all of the Respondents (Great White Construction, Inc.; its successor company, Florida Roofing Experts, Inc.¹; and the sole owner of both entities, Travis Slaughter), in contempt for failure to comply with the Court's orders granting the Secretary's October 2, 2017 and June 5, 2018 applications for summary enforcement of the Occupational Safety and Health Review Commission final orders. No. 19-13261-J, DN 11.

¹ As these orders correctly determined, contempt actions may also be brought against both a successor corporation created to evade OSH Act responsibilities, as well as the corporate officer personally responsible for the evasion. *See, e.g., Reich v. Sea Sprite Boat Co., Continental Marine Corp., and Robert F. Smith*, 64 F.3d 332 (7th Cir. 1995).

On June 5, 2020, the Eleventh Circuit Court of Appeals ordered coercive sanctions against Respondents Florida Roofing Experts, Inc., Great White Construction, Inc., and their Owner Travis Slaughter. This Order (hereinafter “June 5, 2020 Order”) instructed Florida Roofing Experts, Inc. and Travis Slaughter to pay the Secretary of Labor \$2,202,049.41, plus interest and fees, in assessed penalties within ten days of entry of the order, or (a) show cause why they are unable to do so and (b) specify what they are able to pay and the timeframe within which they will pay it, and the reasons for their proposal. Order at 2-3. The June 5, 2020 Order explicitly required Respondents to disclose all of their financial accounts and prohibited them from closing any such accounts or from “sell[ing] any interest in real property, without prior notice to the Secretary of Labor and prior approval of this Court.” *Id.*

On June 18, 2020, Mr. Slaughter filed a response to the June 5, 2020 Order, alleging that he was unable to pay the assessed fines because he had not worked in months, owned no business, his professional licenses were inactive, and he had no income. The claim that his professional licenses were inactive was later determined to be false, as he remains a registered plumbing contractor, roofing contractor, and building contractor with the state of Florida. *See* Exhibit 1. He offered to pay \$200 within the next month. On August 4, 2020, Mr. Slaughter registered a corporation entitled Investment Minded Builders, LLC with the State of Florida. *See* Exhibit 2.

On August 5, 2020, Mr. Slaughter registered a corporation entitled Florida Coastal Pools with the State of Florida. *Id.*

C. Respondents Continue To Violate the Eleventh Circuit's Orders.

As of the date of this Motion, neither Florida Roofing Experts, Great White Construction, Inc., nor Travis Slaughter has paid any amount toward their \$2,202,049.41 liability. Furthermore, Mr. Slaughter has routinely failed to comply with the June 5, 2020 Order that he disclose his financial information to the Secretary. To the contrary, as discussed further below, Mr. Slaughter opened a number of bank accounts without notifying the Secretary, in plain violation of the Order. Mr. Slaughter failed to provide any justification for his alleged inability to pay since the Eleventh Circuit's June 5, 2020 Contempt Order, all the while enjoying a comfortable lifestyle,² including, but not limited to, the following non-disclosed transactions:

1. On June 4, 2020, Mr. Slaughter made a transfer via quit claim deed, for the amount of \$10.00 (ten dollars), from grantor Travis M. Slaughter to his father and his daughter, grantees Ralph M. Slaughter and Tripp C. Slaughter, the real property located at 2734 Belfort Road, Jacksonville, Florida 32216, parcel

² Mr. Slaughter has meanwhile enjoyed a comfortable life of leisure. On December 27, 2020 alone, Mr. Slaughter spent over \$375 at one restaurant before spending over \$600 at a bowling alley and entertainment center. See DN 37, Ex. 1.

identification number 154551-0000. He did not disclose this real property transaction to the Secretary, nor the previous two ten-dollar (\$10.00) quit claim transfers he had made to his family members after the Eleventh Circuit had granted summary enforcement orders against him.³ Exhibit 3.

2. Between June and November 2020, Mr. Slaughter deposited over \$52,000.00 and withdrew over \$80,000.00 in debits from an account at Community First Credit Union. Mr. Slaughter informed a clerk at Community First Credit Union in November 2020 that that he no longer needed this account and would be closing it soon because he had “paid off his house” and also paid for his “truck in cash.” He did not disclose the source of any of those funds to the Secretary. Exhibit 4.

³ Mr. Slaughter transferred two other properties by quit claim real property transfers for ten dollars (\$10.00) each *after* the Secretary had obtained, on October 2, 2017 and June 5, 2018, summary enforcement of final orders of the Commission against him:

(1) On June 14, 2018, Mr. Slaughter made a transfer via quit claim deed, for the amount of \$10.00 (ten dollars), from grantor Travis M. Slaughter to his daughter, Morgan Indy Slaughter, of the real property located at Northshore Condominiums, Unit 502, 1126 1st St N, Jacksonville Beach, FL 32250, parcel identification number 173436-1040.

(2) On June 14, 2018, Mr. Slaughter made a transfer via quit claim deed, for the amount of \$10.00 (ten dollars), from grantor Travis M. Slaughter to grantee Morgan Indy Slaughter, of the real property identified as PT L 7 POTTSBURG FARMS, parcel identification number 138674-0000.

3. On October 15, 2020, Mr. Slaughter opened a bank account at Regions Bank. He did not disclose this account to the Secretary. Exhibit 5.

4. In December 2020, Mr. Slaughter received a disbursement of \$226,601.22 from his retirement account held at LPL Financial. He did not disclose this disbursement to the Secretary. Exhibit 6.

5. On December 3, 2020, Mr. Slaughter opened a bank account at Hancock Whitney and deposited the retirement account assets into this account. Mr. Slaughter did not disclose the Hancock Whitney account to the Secretary until compelled to do so by subpoena on May 5, 2021. Exhibit 7. By the time he disclosed the account, he had spent over \$136,000 of the assets originally deposited in the Hancock Whitney account. Exhibit 8.

II. Discussion.

A. Respondents Have Failed to Purge Themselves of Their Contempt and Failed to Demonstrate an Inability to Pay.

Here, Respondents have already been found in contempt by the Eleventh Circuit. Thus, the focus of this inquiry is Respondents' continued failure to purge themselves of the contempt found in the January 3, 2020 Order, their failure to comply with the directives of the Eleventh Circuit's June 5, 2020 Contempt Order and the appropriate coercive sanctions to achieve compliance with these Orders.

Respondents have not demonstrated an inability to comply with the June 5, 2020 Order. To the extent Respondents assert they were unable to comply due to special circumstances or a present inability to pay, this defense requires them to go beyond mere assertions by introducing concrete evidence in support of their claim. *See Combs v. Ryan's Coal Co., Inc.*, 785 F.2d 970, 983-984 (11th Cir. 1986) (“It may be that [defendant] lack[s] the present ability to pay the obligation ... But [his] failure to make all reasonable efforts to demonstrate that fact for the court means [he was] properly held in contempt.”); *see also United States v. Hayes*, 722 F.2d 723, 725 (11th Cir.1984); *United States v. Rylander*, 460 U.S. 752, 757, 103 S.Ct. 1548, 1552, 75 L.Ed.2d 521 (1983).

The Eleventh Circuit has articulated a three-pronged standard for establishing an “inability to comply” defense contempt. The alleged contemnors must establish that: (1) they were unable to comply, explaining why categorically and in detail; (2) their inability to comply was not self-imposed; and (3) that they made, in good faith, all reasonable efforts to comply. *See CFTC v. Wellington*, 950 F.2d 1525, 1529 (11th Cir. 1992); *see also Federal Trade Comm’n v. Affordable Media, LLC*, 179 F.3d 1228, 1241 (9th Cir. 1999); *In re Power Recovery Sys. Inc.*, 950 F.2d 798, 803 (1st Cir. 1991).

Thus, in order to succeed on an inability defense, the alleged contemnor must establish that they made “in good faith all reasonable efforts” to meet the terms of

the court order they are seeking to avoid. *Wellington*, 950 F.2d at 1529; *see also Combs*, 785 F.2d at 984 (“We construe this requirement strictly. ‘Even if the efforts he did make were “substantial,” “diligent” or “in good faith,” ... the fact that he did not make “*all reasonable efforts*” establishes that [respondent] did not sufficiently rebut the ... prima facie showing of contempt.”) (*citing Hayes*, 722 F.2d at 725) (emphasis added).

Finally, when a respondent is adjudicated in contempt, the contempt continues until purged. Civil contempt sanctions are employed by the courts to secure compliance with their orders. *Wellington*, 950 F.2d at 1530. The court has ample power to frame contempt and purge orders to accomplish compliance with the judgment, including the power to fine or imprison. As the Supreme Court explained:

One who is fined, unless by a day certain he produces the books, has it in his power to avoid any penalty. And those who are imprisoned until they obey the order, “carry the keys of their prison in their own pockets.” Fine and imprisonment are then employed not to vindicate the public interest but as coercive sanctions to compel the contemnor to do what the law made it his duty to do.

Penfield Co. of Calif. V. S.E.C., 330 U.S. 585, 590 (1947) (citations omitted); 18 U.S.C. § 401(c) (“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”); *see also Shillitani v. United States*, 384 U.S. 364 (1966); *Gompers v. Buck’s Stove & Range Co.*, 221 U.S. 418, 441-442 (1911). When an order of incarceration is conditioned

upon a refusal to comply in good faith with a court order then the purpose is coercive. *Combs*, 785 F.2d at 981. Such incarceration is a legitimate use of the civil contempt power of the court because it has “the obvious purpose of compelling the witnesses to obey the orders [of the court]. When the [respondents] carry ‘the keys of their prison in their own pockets,’ the action ‘is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees.” *Combs*, 785 F.2d at 981 (*citing Shillitani*, 384 U.S. at 368, 86 S.Ct. at 1534).

B. Mr. Slaughter Has Failed To Purge Himself of His Contempt.

Here, there is nothing in the record before this Court to support an inability to comply. Instead, the record shows a long history of failure to comply with the Eleventh Circuit’s Orders. After the Eleventh Circuit ordered Respondent Great White Construction to pay a total of \$2,202,049.91 through its 2017 and 2018 Orders, Mr. Slaughter transferred two of his properties to his daughter. The quit claim deed of each property lists the purchase price as \$10.00. Exhibit 2. After the Eleventh Circuit found Mr. Slaughter in contempt of the 2017 and 2018 orders and ordered him personally to pay \$2,202,049.91, he used the last of Respondent Florida Roofing Expert’s assets to pay off his father’s mortgage before closing Florida

Roofing Experts' account⁴ and transferring his interest in his father's property by quit claim deed for a sum of \$10.00.

Exhibit 3; Exhibit 9, p. 40:20-21; Exhibit 10, p. 128:13-131:12.

The Secretary has produced detailed evidence of Mr. Slaughter's non-disclosure of financial accounts and assets. Mr. Slaughter's repeated failure to disclose his financial accounts and to pay any amount toward compliance with the June 5, 2020 shows a flagrant disregard for the Court's authority, rather than a good faith effort to make all reasonable efforts at purging his contempt. Moreover, it shows that current coercive sanctions of ordering financial disclosures are insufficient to achieve compliance with the June 5, 2020 Order. Even at his April 15, 2021 in-Court deposition before the Special Master, Mr. Slaughter could not provide any justification or reason why he was unable to comply with these directives. Because Mr. Slaughter has shown that financial sanctions are insufficient to coerce his compliance, the only remaining remedy to coerce compliance is incarceration. Additionally, because Mr. Slaughter transferred three properties to family members to avoid paying the amounts due under the Court's 2017, 2018, and

⁴ Because Mr. Slaughter admitted to using Florida Roofing Experts' assets to pay his personal debts, including his father's mortgage, he has necessarily disregarded the corporate form and cannot avail himself of the protection of the corporate veil. Because Florida Roofing Experts is a successor in interest to Great White Construction, Mr. Slaughter is personally liable for the 2017 and 2018 debts. *See* Exhibit 10, p. 128:13-131:12.

2020 Orders, justice requires that Petitioner's Motion to Set Aside Fraudulent Transfers be granted.

C. Recommendation of this Court.

The Eleventh Circuit has authorized this Special Master to "take such steps as necessary to enforce this Court's January 3, 2020 contempt judgement and this order set forth below." It is this Special Master's opinion that the record before it clearly supports a finding that Respondents are willfully and deliberately ignoring the directives of the Eleventh Circuit.

This Court therefore respectfully **RECOMMENDS** that Respondent Travis Slaughter be immediately incarcerated for his failure to comply with the Eleventh Circuit's June 5, 2020 Contempt Order, until such time as he has paid the penalties, fees and costs due, or made a meaningful proposal for financial payment of the amount specified in that Order, as supported by sufficient financial documentation, and accompanied by the first installment of such payment.

This Court additionally **RECOMMENDS** that Petitioner's Motion to Set Aside Fraudulent Transfers (DN 40) be **GRANTED**.

It is further **RECOMMENDED** that Respondents be required to pay all reasonable costs, including but not limited to attorneys' fees, incurred by Petitioner as a result of the necessity of the filing of the additional petitions, and for the attendance before this Court.

DONE AND ORDERED this _____ day of _____ 2021.

SENIOR JUDGE HARVEY E. SCHLESINGER

Respectfully submitted this 18th day of October 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2021, I electronically filed the foregoing Petitioner's Proposed Report And Recommendation of the Special Master with the United States Court of Appeals for the Eleventh Circuit using the CM/ECF system, which will provide service to the following CM/ECF participants:

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