

CAUSE NO. D-1-GN-21-003223

At March 10, 2023 4:53 PM

Velva L. Price, District Clerk

THE ROY F. & JOANN COLE MITTE
FOUNDATION,

Plaintiff,

v.

WC 1ST AND TRINITY, LP,
WC 1ST AND TRINITY GP, LLC,
WC 3RD AND CONGRESS, LP,
WC 3RD and CONGRESS GP, LLC, AND
NATIN PAUL,

Defendants

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

ORDER OF CONTEMPT AND ORDER OF COMMITMENT

On November 9, 2022, the Court heard the Motion of the Roy F. & Joann Cole Mitte Foundation for Show Cause Order and to Hold Defendant Natin Paul in Contempt and Plaintiff's Motion for Sanctions. All parties and counsel appeared in person, including Natin Paul, who had previously been personally served with the Court's Show Cause Order. The Court heard testimony and received evidence, along with arguments of counsel. After Mr. Paul testified that he needed a week or two to obtain records to answer certain questions and provide certain information, the Court ordered that the hearing would be recessed until November 17, 2022, to allow Mr. Paul time to obtain such records.

After the November 9, 2022 hearing was recessed, Plaintiff filed an amended Motion of the Roy F. & Joann Cole Mitte Foundation for Show Cause Order and to Hold Defendant Natin Paul in Contempt. Mr. Paul was personally served with a new Show Cause Order in the courtroom on the record at the end of the November 9, 2022 hearing. This Show Cause Order commanded him to appear on November 17, 2022.

On November 17, 2022, the Court continued the hearing on Plaintiff's motion for contempt and motion for sanctions. All parties and their counsel were again present in person, including Natin Paul. The Court heard further testimony and received additional evidence and arguments of counsel on November 17, 2022.

After considering the Court's previous orders, the admissible evidence, and the arguments of counsel, including post-hearing briefing, the Court makes the following factual findings beyond a reasonable doubt:

1. The Court entered a post-judgment injunction (the "Injunction") under Tex. R. App. P. 24.2 on June 10, 2022, enjoining Defendants Natin Paul, WC 3rd and Congress GP, LLC, and WC 1st and Trinity GP, LLC (Defendants) from transferring any of their assets over \$25,000 for less than fair value.
2. In the Injunction, "assets" were specifically defined to "include any property or thing of value, including but not limited to...cash...."
3. The Injunction contained terms similar to those in the Temporary Restraining Order signed on May 13, 2022.
4. The Injunction further ordered Defendants to file monthly reports listing every transfer over \$25,000 whether it was made for fair value or not.
5. Mr. Paul and his counsel were aware of the Injunction. Mr. Paul's counsel participated in the Injunction hearing and unsuccessfully appealed the Injunction to the Third Court of Appeals. When asked if he was aware of the Injunction, Mr. Paul did not deny having knowledge of the Injunction, responding that he was generally aware of the events of the litigation. To the extent that Mr. Paul made equivocal testimony

concerning his lack of memory or awareness of the Injunction, the Court finds that this testimony is not credible.

6. Mr. Paul had the ability to comply with the Injunction.
7. Mr. Paul continuously refused to obey the Injunction.
8. Mr. Paul failed to timely file the monthly reports due on June 30, July 31, August 31, September 30, and October 31, 2022.
9. Mr. Paul belatedly filed the reports shortly before the November 9, 2022, hearing on contempt and sanctions.
10. **Violation 1**: Mr. Paul made a transfer to an NBA player of \$100,000 on June 22, 2022, but in the late-filed report for June 2022, Mr. Paul intentionally failed to report the transfer. After being confronted with evidence of this transfer at the November 9, 2022, hearing, Mr. Paul equivocated, claiming not to remember such transfer, but then later reported the transaction on an amended report. To the extent that Mr. Paul made equivocal testimony concerning his lack of memory or awareness of the \$100,000 transfer to the NBA player, the Court finds that this testimony is not credible.
11. **Violation 2**: The \$100,000 transfer was not made for fair value. Mr. Paul did not receive anything of value from the NBA player and Mr. Paul admitted he did not personally owe the NBA player any money. Mr. Paul was aware that the \$100,000 transfer violated the Injunction, as a prohibited transfer not for fair value.
12. **Violation 3**: Mr. Paul also ordered \$963,323.18 of his funds (held by an escrow agent) to be transferred to a wholly owned business of his, Westlake Industries, on June 10, 2022, the date the Injunction was signed, but intentionally failed to report the

transfer. This failure violated the Injunction, and if made prior to the signing of the Injunction, violated the Temporary Restraining Order.

13. Violation 4: The \$963,323.18 transfer was also not made for fair value. The Court's finding is based on the timing of the transfer and the fact that Mr. Paul omitted it from his sworn report and then testified falsely concerning the transfer at the November 17 hearing. Mr. Paul also failed to provide credible evidence that the transfer was for fair value or that the Injunction did not require it to be reported. The Court finds that Mr. Paul's testimony concerning this transfer was not credible. The Court finds that Mr. Paul was aware that the \$963,323.18 transfer violated the Injunction (and if made before the Injunction was signed, violated the earlier Temporary Restraining Order) as a prohibited transfer not for fair value.

14. Violation 5: Mr. Paul failed to produce complete records of his bank accounts at the November 17, 2022, hearing after being ordered to do so by the Court.

15. The Court also notes the following acts of intentionally providing false testimony to the Court, i.e., perjury, by Mr. Paul:

- a. **Violation 6**: Filing a false sworn report, specifically stating "under penalty of perjury," for June 2022 that no transfers over \$25,000 were made that month when in fact at least two such transfers were made;
- b. **Violation 7**: Falsely testifying at the November 9, 2022 hearing that he made no transfers over \$25,000 during June 2022; and
- c. **Violation 8**: Falsely testifying at the November 17, 2022, hearing concerning the number of bank accounts in his name or under his personal control.

16. The Court specifically FINDS that Natin Paul is in contempt for each of the eight separate violations enumerated above.

17.Mr. Paul's lies to the Court while under oath were pervasive and inexcusable, and served to deliberately thwart the functions of the Court in enforcing its Injunction.

18.Mr. Paul's attempt to rely on advice of counsel is factually unbelievable, legally insupportable, and contradicted by the statements of his counsel.

19.Mr. Paul has repeatedly disobeyed Court orders in this litigation as well as in related litigation and the related arbitration and he has been sanctioned numerous times in the past, and such sanctions have failed to deter Mr. Paul from continued disobedience of court orders and lack of candor with the Court.

20. Plaintiff incurred \$90,880.00 in reasonable and necessary attorneys' fees in filing the motions for contempt and sanctions, and prosecuting same through two live hearings and extensive briefing.

The Court makes the following conclusions of law:

- 1.** Natin Paul's continuing failure to report the \$963,323.18 transfer to Westlake Industries on June 10, 2022, constitutes civil contempt of court and this failure to report was intentional.
- 2.** Natin Paul's \$963,323.18 transfer on June 10, 2022, and \$100,000 transfer on June 22, 2022, violated the Injunction, and with respect to the June 10, 2022 transfer, if made prior to the signing of the Injunction, violated the Temporary Restraining Order. Further those transfers by Natin Paul were intentional. The violations of the Injunction and the multiple acts of false testimony noted herein each constitute criminal contempt of court.

IT IS THEREFORE ORDERED that:

1. As punishment for the act of civil contempt, Mr. Paul shall be confined in the Travis County Jail, commencing on March 15, 2023, until he files a sworn report of the \$963,323.18 transfer made on June 10, 2022; and
2. As punishment for each of the eight separate acts of criminal contempt, Mr. Paul shall be confined to the Travis County Jail, commencing on March 15, 2023, for a term of 10 days in jail. Each period of confinement shall run concurrently.

IT IS FURTHER ORDERED that Natin Paul is committed to the custody of the Sheriff of Travis County, Texas, to be confined for 10 days in the following manner: Natin Paul is ORDERED to report to the Travis County Correctional Center no later than 10 a.m. on Wednesday, March 15, 2023, until his criminal contempt and civil contempt sentences are complete.

IT IS FURTHER ORDERED that all writs and other process necessary for the enforcement of this order be issued.

SIGNED on March 10, 2023.


Jan Soifer, Judge Presiding