

Cause No. 01-21-00284-CV

GREAT VALUE STORAGE, LLC and	§	IN THE COURT OF APPEALS
WORLD CLASS CAPITAL	§	
GROUP, LLC,	§	
	§	
<i>Appellants,</i>	§	
<i>v.</i>	§	FIRST DISTRICT OF TEXAS
	§	
PRINCETON CAPITAL	§	
CORPORATION,	§	
	§	
<i>Appellee,</i>	§	HOUSTON, TEXAS

RECEIVER'S STATUS REPORT

TO THE HONORABLE FIRST COURT OF APPEALS:

The court-appointed Receiver, Mr. Seth Kretzer, respectfully files his status report pursuant to the Court's September 22, 2022 order directing quarterly reports following remand.

This Court explained in its order, "The receiver, Seth Kretzer, has filed a motion to dismiss this appeal in light of Princeton's settlement, arguing that the appeal is now moot, or in the alternative to remand to the district court for findings and conclusions regarding the validity of the settlement agreement, which Kretzer asserts may be in violation of Texas law and public policy."¹ This Court also remanded "this case to the trial

¹ Order, First Court of Appeals of Texas, Sept. 22, 2022, no. 01-21-00284-CV.

court to allow the parties to effectuate, if possible, the parties' settlement agreement and to wind down the receivership, as necessary."²

Accordingly, on October 30, 2022 Receiver filed in the District Court several documents. The first was a brief in support of his September 16, 2022 motion for order of declaratory judgment. In his brief, Receiver explains that the purported assignment by Princeton Capital of its original note payable agreement, on which it sued, to a newly formed shell entity controlled by Nate Paul, constituted an unenforceable legal nullity because it violated the long-standing Texas "merger doctrine." Under Texas law, it is well established that upon entry of a judgment, the contractual relationship between the parties that gave rise to the debt merges into the judgment.³ *Res judicata* serves the public goals of affording full respect to prior judgments and relieving courts from repetitious litigation, and the private goal of "repose"— to be finally free from the cost and hassle of litigation.⁴

Receiver's brief further explains that Princeton's purported attempt to convey the District Court's March 4, 2021 final judgment to the same newly formed Nate Paul controlled entity violates Texas law and policy. The brief explains that, as a general rule,

² *Ibid.*

³ *Puga v. Donna Fruit Co.*, 634 S.W.2d 677, 679 (Tex. 1982).

⁴ Charles Alan Wright & Arthur R. Miller, 18 Federal Practice and Procedure § 4403, 23-27 (2d ed. 2012).

an assignment of a cause of action is valid in Texas.⁵ The Texas Supreme Court, however, has unequivocally held that “assignment[s] of choses in action that tend to increase and distort litigation” violate public policy and are therefore invalid and unenforceable.⁶ More specifically, assignments of claims pursuant to settlements are invalid when they (1) “tend to distort the litigation” by causing previously adverse parties to realign against a “nominal adversary,” thereby “skew[ing] the [litigation] process, or (2) “tend to promote litigation rather than settle it.”⁷ Receiver’s brief then explains the details of why and how the purported assignment of the March 4, 2021 final judgment from Princeton to Nate Paul both distorts litigation and promotes more litigation rather than settling.

Finally, the brief explains that because of the “savings clause” incorporated into the settlement agreement, the remainder of the parties’ settlement agreement is valid.⁸ Princeton is entitled to keep the \$11.37 million payment by the Defendants. Princeton

⁵ See *State Farm Fire & Cas. Co. v. Gandy*, 925 S.W.2d 696, 711 (Tex. 1996).

⁶ *Id.*; see also *Miles v. Sunset Logistics, Inc.*, 2011 WL 1532382, at *4 (N.D. Tex. Apr. 22, 2011) (“Texas courts invalidate assignments that tend to increase and distort litigation.”).

⁷ *Gandy*, 925 S.W.2d at 709-10 (quoting *Elboar v. Smith*, 845 S.W.2d 240, 250 (Tex. 1992)); see also *Am. Homeowner Pres. Fund, LP v. Pirkle*, 475 S.W.3d 507, 519 (Tex. App.—Fort Worth 2015, no pet.) (citing *Gandy* for the proposition that, in analyzing assignments of claims, “courts should inquire as to whether there are notions of equity and public policy that would vitiate the assignment ... under the circumstances.”).

⁸ The settlement agreement contains a savings clause which permits the agreement to remain enforceable even if one provision is later held unenforceable: “If any provision of this Agreement is determined to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.” Settlement Agreement, para. 15(f).

promptly informed the Securities and Exchange Commission of the payment.⁹ Princeton has since distributed the funds to its shareholders.¹⁰

In addition to his brief, Receiver filed a report with the District Court, documenting the Defendants' numerous transfers of property and cash before and after the District Court's September 8, 2021 receivership and turnover order.

Further, Receiver filed a motion for approval of his receivership fees in light of the successful resolution of the case and payment to Princeton. The receivership fees, by agreement of the parties, are held on reserve under the control of the U.S. Bankruptcy Court in Dallas.

In Receiver's September 21, 2022 motion in this Court to dismiss or remand, Receiver predicted that the purported settlement agreement would not end litigation, but would instead foster more: "The Settlement Agreement will (and is obviously intended to) enable Mr. Paul— through his newly formed shell company, Phoenix—to attack every action that the Receiver has taken to collect on the Judgment through further litigation."¹¹ That prediction has proved true. *Four* new attorneys have filed notices of appearance for

⁹ Princeton Capital Corp, Form 8-K, Filed 09/09/22 for the Period Ending 09/02/22, Securities and Exchange Commission (Wash. D.C.) at 1 (signed by Mr. Gregory J. Cannella, Chief Financial Officer).

¹⁰ Princeton Capital Corp, Form 10-Q, Filed 11/10/22 for the Period Ending 09/30/22, Securities and Exchange Commission (Wash. D.C.) at 44 (signed by Mr. Gregory J. Cannella, Chief Financial Officer).

¹¹ *See* Receiver's Motion to Dismiss Appeal or to Remand, Sept. 21, 2022, No. 01-21-00284-CV, at 15.

Defendants in the District Court. Defendants have filed *four* new post-judgment, post-settlement pleas in intervention by *ten* Paul-controlled shell entities purporting to assert new claims against various secured creditors and Receiver.¹² Defendants and these entities have also filed *twenty-one* sets of deposition notices, subpoenas, and requests for production of documents. Receiver has filed motions to quash this collection of post-settlement discovery attempts.

On March 2, 2023, the District Court conducted a hearing on one of the Defendants' motions: *Bank Account Intervenor's Opposition to Receiver's Fourth Motion to Quash and Motion to Compel*, filed February 2, 2023.¹³ The Court has taken the motion under advisement.

Two of the Defendant-controlled corporate entities which have filed post-judgment, post-settlement pleas in intervention, subpoenas, and discovery requests against Receiver and secured creditors are called *WC 4th and Rio Grande, LLC* and *WC 4th and Colorado, LLC*. The

¹² The pleas in intervention include: (1) January 10, 2023, "Third Amended Plea in Intervention and Motion to Void Actions of Receiver," purportedly on behalf of 7 Nate Paul-controlled companies: World Class Holdings, LLC, World Class Holding Company, LLC, WC 707 Cesar Chavez, LLC, WC Galleria Oaks, LLC, WC Paradise Cove Marina, LP, WC MRP Independence Center, LLC, and WC Subsidiary Services, LLC; (2) November 29, 2022, "WC 4th and Colorado, LP's Plea in Intervention and Motion to Void Actions of Receiver; (3) November 1, 2022, "First Amended Plea in Intervention," purportedly on behalf of Nate Paul-controlled entity, World Class Holdings, LLC; and (4) October 31, 2022, "WC 4th and Rio Grande, LP's Plea in Intervention," purportedly on behalf of WC 4th and Rio Grande, LP.

¹³ The motion relates to: (1) January 10, 2023, "Third Amended Plea in Intervention and Motion to Void Actions of Receiver," purportedly on behalf of 7 Nate Paul-controlled companies: World Class Holdings, LLC, World Class Holding Company, LLC, WC 707 Cesar Chavez, LLC, WC Galleria Oaks, LLC, WC Paradise Cove Marina, LP, WC MRP Independence Center, LLC, and WC Subsidiary Services, LLC, and (2) January 29, 2023, Receiver's Fourth Motion to Quash New Discovery Demands by Defendants and for Protective Order.

intervention and discovery demands of these two entities pertain to property disputes currently pending in four appeals, by these same entities, currently before the Eighth Court of Appeals, El Paso,¹⁴ Third Court of Appeals, Austin,¹⁵ and Fourteenth Court of Appeals, Houston,¹⁶ which have exclusive jurisdiction.¹⁷ In all four appeals, these two entities are appealing from orders by Travis County District Courts that Receiver possessed the necessary authority to settle pending litigation involving these entities of Defendants. The two entities did not request or obtain permission from the three Courts of Appeals to seek intervention or discovery in the 165th District Court.

On February 8, 2023, the Third Court of Appeals, Austin, affirmed the Travis County District Court judgment confirming arbitration and the lower court order directing the Receiver in that case (Mr. Milligan) to liquidate two Nate Paul controlled commercial properties.¹⁸

On February 23, 2023, Receiver (Mr. Kretzer) filed in the 165th District Court a motion to strike the four post-judgment, post-settlement interventions by the ten Defendant-controlled entities. Among other points, Receiver explained that these interventions are not permitted in light of the Defendants' settlement agreement,¹⁹ and this Court's September 22, 2022 specific

¹⁴ *WC 4th and Rio Grande, LP v. La Zona Rio, LLC*, No. 08-22-00225-CV (Tex. App.—El Paso); *WC 4th and Rio Grande, LP v. La Zona Rio, LLC*, No. 08-22-00073-CV (Tex. App.—El Paso).

¹⁵ *World Class Capital Group, LLC and WC 4th and Colorado, LP v. Colorado Third Street, LLC*, No. 03-22-00781-CV (Tex. App.—Austin).

¹⁶ *WC 4th and Colorado, LP v. Colorado Third Street, LLC*, No. 14-22-00764-CV (Tex. App.—Houston [14th Dist.]).

¹⁷ See Tex. R. App. P. 25.1(b) (“Jurisdiction of the Appellate Court”).

¹⁸ Memorandum Opinion, *Natin Paul v. The Roy F. & Joann Cole Mitte Foundation*, No. 03-21-00502-CV (Tex. App.—Austin, Feb. 8, 2023).

¹⁹ See *First Alief Bank v. White*, 682 S.W.2d 251, 252 (Tex. 1984) (“[A] plea in intervention comes too late if filed after judgment and may not be considered unless and until the judgment has been set aside.”);

remand order.²⁰ Further, Receiver explained that the Third, Eighth, and Fourteenth Courts of Appeals presently possess exclusive jurisdiction over the property challenges by the two entities *WC 4th and Rio Grande, LLC* and *WC 4th and Colorado, LLC*.

On March 3, 2023, the Travis County 345th District Court sent an email to counsel ruling that the Court found the owner and operator of all these Defendant-controlled entities, Nate Paul, guilty of civil and criminal contempt of court.²¹ The District Court ordered Paul placed in the Travis County Jail for civil contempt “until he files an amended report accurately reflecting the \$960,000 transfer.”²² The District Court further ordered Paul jailed March 15, 2023 for 10 days for criminal contempt, and sanctioned him \$181,760.²³ The 345th District Court instructed

Alexander Dubose Jefferson & Townsend v. Chevron Phillips Chem. Co., 540 S.W.3d 577, 585 (Tex. 2018) (“The turnover statute has no provisions conferring authority on trial courts to decide the substantive rights of the parties before it in a turnover proceeding, let alone the rights of strangers to the underlying judgment.”).

²⁰ See *Denton Cty. v. Tarrant Cty.*, 139 S.W.3d 22, 23 (Tex. App.—Fort Worth 2004, no pet.) (“When an appellate court remands a case with specific instructions, the trial court is limited to complying with the instructions,” and “the trial court’s authority is limited to only those issues specified in the mandate”).

²¹ “With respect to his acts constituting criminal contempt, the Court finds that Mr. Paul blatantly ignored a lawful court order, making at least two unauthorized transfers in direct violation of the Court’s injunction: the \$100,000 transfer and the \$960,000 transfer. The Court also finds that Mr. Paul offered false testimony, committing perjury, sitting in the witness box just a few feet away from the Court, in responding to multiple questions by counsel and the Court. He lied about both transfers referenced above and he lied about his personal bank accounts, even when confronted with evidence of such accounts. He failed and refused to produce documents of such accounts, even after the hearing was recessed for a week to give him time to gather such documents. Mr. Paul’s flagrant 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. The attempt to rely on advice of counsel is factually unbelievable, legally insupportable, and contradicted by the statements of his counsel. Moreover, Mr. Paul’s actions are part of a pattern of non-compliance with court orders.” Email of 345th District Court to Counsel of Record, *The Roy F. & Joann Cole Mitte Foundation v. WC 1st & Trinity, LP, et al.*, No. D-1-GN-21-003223 (345th Dist. Ct., Travis Co.).

²² *Ibid.*

²³ *Ibid*; see also Goldstein, Taylor, “Austin Investor Embroiled in FBI Investigation of AG Ken Paxton Faces 10 Days in Jail,” HOUSTON CHRONICLE (Mar. 4, 2023) (on-line:

counsel for the Receiver in that case to submit a proposed order to that effect.²⁴ On March 9, 2023, the court denied Paul's motion to stay the order.²⁵

Receiver's brief, report and motions are pending before the 165th District Court. Receiver will continue to provide quarterly reports.

Respectfully submitted this 9 day of March 2022,

Seth Kretzer

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²⁴ *Email of 345th Dist. Ct., supra; see also* Barragán, James, "Nate Paul, Real Estate Investor in Paxton Corruption Allegations, Found in Contempt of Court, Ordered to Jail," TEXAS TRIBUNE (Mar. 4, 2023) (on-line: <https://www.texastribune.org/2023/03/04/nate-paul-contempt-of-court-paxton/>).

²⁵ *Email of 345th Dist. Ct., supra*, Mar. 9, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been delivered this March 9, 2022 (by court electronic filing only) to all counsel of record for Appellants and Appellee.

James W. Volberding

JAMES W. VOLBERDING

CERTIFICATE OF COMPLIANCE

As required by Texas Rule of Appellate Procedure 9.4, I certify that the number of words in this pleading is 2,179, measured from page one through the conclusion, according to Word. This pleading was prepared with Microsoft Word for Apple, version 16.51.

James W. Volberding

JAMES W. VOLBERDING

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