

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

_____)	
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. PJM 03-3317
)	
AMERIDEBT, INC., et al.,)	
)	
Defendants.)	
_____)	

FTC’S APPLICATION FOR IMMEDIATE INCARCERATION

The Federal Trade Commission (“FTC” or “Commission”) requests the immediate incarceration of Andris Pukke and Peter Baker to coerce them to comply with the Court’s Order Holding Andris Pukke and Peter Baker in Contempt of Court (“Contempt Order,” DE # 571, filed March 30, 2007). As explained in the Receiver’s Application for Supplemental Relief and Request for Immediate Incarceration (“Receiver’s Application,” filed April 30, 2007), Mr. Pukke and Mr. Baker have not turned over Mr. Pukke’s assets to the Receiver, in violation of several Court orders entered over the past two years. Even the Court’s recent contempt findings have failed to provide the contemnors with the incentive to comply. According to the Receiver’s estimates, Mr. Pukke and Mr. Baker are withholding at least \$30 million worth of assets from the Receiver, and ultimately from the financially distressed consumers whom Mr. Pukke cheated out of millions of dollars. Clearly, the contemnors need a much stronger incentive to part with that \$30 million. As demonstrated by their continuing contumacious conduct, only immediate incarceration will force them to relinquish these funds.

I. FACTUAL BACKGROUND

On March 30, 2007, after a ten-day bench trial requiring considerable Receivership and judicial resources, the Court entered a Contempt Order finding that Mr. Pukke and Mr. Baker have concealed various valuable assets (“Concealed Assets”) in violation of two previous orders: the Preliminary Injunction Order with Asset Freeze, Appointment of a Receiver, Repatriation of Assets, and Other Equitable Relief (DE #122, filed April 20, 2005), and the Stipulated Final Judgment and Permanent Injunction as to Defendants Debtworks, Inc. and Andris Pukke (DE # 473, filed May 16, 2006). The Contempt Order requires the contemnors to “take all steps necessary or convenient” to turn over these assets and “cooperate fully with the Receiver.” Contempt Order at ¶¶ 4-5.

As set forth in the Receiver’s Application, Mr. Pukke and Mr. Baker continue to refuse to turn over the vast majority of the Concealed Assets, totaling at least \$30 million. As of this past Friday, April 27, 2007, Mr. Pukke had taken absolutely no steps to abide by the Contempt Order, ignoring the Receiver’s requests for an accounting of assets and turnover of records pertaining to the Concealed Assets and failing to sign letters directing third parties to turn over the assets. Mr. Pukke also has tried to protract these proceedings by filing a *pro se* pleading attacking this Court’s jurisdiction and the FTC’s standing to bring this action (DE # 587, filed April 25, 2007), despite the Court’s order requiring that any official communication between the Court and Mr. Pukke take place through his counsel at Jones Day (Order, DE # 584, filed April 20, 2007). Only after Mr. Pukke’s counsel John Williams apparently informed him that the Court likely would incarcerate him shortly unless he complied with the Contempt Order did Mr. Pukke finally send select third-party letters to the Receiver on Friday, April 27, 2007. However, he also sent the Receiver an unsworn cover letter stating that he never owned any interest in assets

that the Court concluded in its contempt findings that he owned. Further, Pukke again failed to provide any accounting of assets or turn over any records.

Mr. Baker likewise has demonstrated that this Court's orders have no influence on him. He has refused to turn over funds and records pertaining to the Concealed Assets, provided inconsistent information regarding the location of relevant documents, failed to deliver letters directing third parties to return assets that belong to the Receiver, and refused to meet with the Receiver or turn over any documents unless the Receiver completes, signs, and certifies a questionnaire Mr. Baker created.¹

II. LEGAL ANALYSIS

Mr. Pukke and Mr. Baker's contumacious conduct demonstrates that this Court's orders have not provided them with a sufficient incentive to surrender Mr. Pukke's assets. Accordingly, a stronger coercive sanction is necessary. "The paradigmatic coercive, civil contempt sanction . . . involves confining a contemnor indefinitely until he complies with an affirmative command such as an order 'to pay alimony, or to surrender property ordered to be turned over to a receiver . . .'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 828, 114 S. Ct. 2552, 2556, 129 L. Ed. 2d 642, 651 (1994) (citation omitted); *United States v. Pratt*, 351 F.3d 131 (4th Cir. 2003) (explaining that "a civil contempt sentence aims to 'coerce the defendant to do the thing required' . . .") (citation omitted).²

¹ Like Mr. Pukke, Mr. Baker became aware on April 27, 2007 that he faced incarceration for his contumacious behavior. Accordingly, he called the Receiver's counsel from Belize that day; however, Mr. Baker hung up after he was reminded that he had not provided accountings or assets as ordered.

² Although coercive fines are also appropriate in civil contempt cases, *see Bagwell*, 512 U.S. at 828, 114 S. Ct. at 2556, 129 L. Ed. 2d at 651, in this case, Mr. Pukke has already been ordered to turn over all of his assets, and he refuses to do so. Thus, a fine would be an inadequate means of enforcing compliance.

As explained above and more fully in the Receiver's Application, Mr. Pukke and Mr. Baker have shown that absent stronger coercive measures, they will not turn over Mr. Pukke's assets, but rather actively will impede the Receiver's efforts to collect assets for consumers. In its contempt ruling on March 14, 2007, the Court specifically found that Mr. Pukke and Mr. Baker were not forthcoming with the Court and that many of their assertions were "ridiculous" and "outlandish." Yet despite the pains the Court took to impress upon them the severity of the matter, the contemnors continue to be uncooperative and evasive. Unfortunately, the Court's contempt ruling, the *third* Court order requiring that Mr. Pukke give up his assets, has had no coercive effect on the contemnors, and has not yet motivated them to cooperate fully in immediately turning over Mr. Pukke's assets. The contemnors have given no indication that additional time will change their contumacious, uncooperative behavior; rather, absent stronger coercive measures, they will continue to hide Mr. Pukke's assets and play games with the Receiver and this Court, further diminishing Receivership resources at the expense of consumer redress.

III. CONCLUSION

For the foregoing reasons, the FTC requests that the Court immediately incarcerate Mr. Pukke and Mr. Baker until they purge their contempt by complying with this Court's Contempt Order.

Dated: April 30, 2007

Respectfully submitted,

FEDERAL TRADE COMMISSION
William Blumenthal
General Counsel

/s/ Malini Mithal
MALINI MITHAL
600 Pennsylvania Ave., NW
Mail Drop NJ-2122
Washington, DC 20580
(202) 326-2972 (telephone)
(202) 326-2558 (facsimile)
mmithal1@ftc.gov

Local Counsel
JEANNE M. CROUSE (#05329)
600 Pennsylvania Ave., N.W.
Mail Stop NJ-2122
Washington, D.C. 20580
(202) 326-3312 (telephone)
(202) 326-2558 (facsimile)
jcrouse@ftc.gov