

GRAND JURY MATTER: UNDER SEAL

In re:)
) Misc. No.: 3:07-mc-135-MBS
 A Matter Under Investigation by)
 Grand Jury #1.)
 _____)

ORDER TO SHOW CAUSE

The within action involves an investigation into the activities of Tony Pough, Joseph Brunson, and Timothy McQueen and the various business entities with whom they are affiliated. On August 31, 2007, the court orally issued a preliminary injunction pursuant to 21 U.S.C. § 853(e)(1)(B) regarding the forfeiture of property owned or controlled by Messrs. Pough, Brunson, and McQueen, doing business as Three Hebrew Boys, LLC; Capital Consortium Group, LLC; Brunson Outreach; Daniel Development Group, LLC; Wotteth Outreach Ministries; Vision Financial Service; Faith Ministries; Warrior Express; TMS Family Trust; Purpose Driven, LLC; Tri-Warrior Transit, LLC; Tri-Transit Logistics, LLC; KMF, Inc.; and Vision Outreach (collectively “Three Hebrew Boys”).¹ On September 5, 2007, the court entered an order appointing Beattie B. Ashmore, Esquire as Receiver with full and exclusive power, duty, and authority to administer and manage the business affairs, funds, assets, choses in action, and any other property of Three Hebrew Boys, and to take whatever actions are necessary for the protection of the United States and investors.

The September 5, 2007 order required Three Hebrew Boys and all respective directors, officers, agents, and employees to cooperate fully with the Receiver in his endeavors to identify and marshal assets. The September 5, 2007 order further prohibited persons with actual notice of the

¹ A written order was entered on September 18, 2007.

order from filing a petition for relief under the United States Bankruptcy Code without prior permission from the court, or from in any way disturbing the assets or proceeds of the receivership.

Messrs. Pough, Brunson, and McQueen had actual notice of the court's September 5, 2007 order.² Nevertheless, and in violation of the court's proscription, Messrs. Pough, as Managing Member; Brunson, as Managing Member; and McQueen, as Managing Partner of Capital Consortium Group, aka 3 Hebrew Boys, aka Three Hebrew Boys, filed a pro se Voluntary Petition under Chapter 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the District of South Carolina. The court withdrew the reference to the Bankruptcy Court and currently has the Chapter 11 petition under its jurisdiction. See In re: (CCG) Capital Consortium Group, aka 3 Hebrew Boys, aka Three Hebrew Boys, C/A No. 3:07-3407-MBS.

On October 19, 2007, the Receiver filed a motion for contempt and to dismiss the bankruptcy petition. The court issued notice for a hearing to be held on November 13, 2007 at 2:00 PM with respect to the motion for contempt. The Receiver and his counsel, L. Walter Tollison, III, Esquire, appeared at the hearing, as did the Assistant United States Attorney, Winston D. Holliday, Esquire. Hemphill P. Pride, II, Esquire, counsel for Messrs. Pough, Brunson, and McQueen, also appeared at the hearing; however, his clients did not. Mr. Pride informed the court that he had advised Messrs. Pough, Brunson, and McQueen of the hearing. Mr. Pride also informed the court that Messrs. Pough, Brunson, and McQueen had terminated his services as counsel. At his request, the court excused Mr. Pride for the remainder of the hearing.

²Hemphill P. Pride, II, Esquire, counsel for Messrs. Brunson, Pough, and McQueen, represented to the court that he engaged in detailed conversations regarding the September 5, 2007 order with his clients. The order also is referenced in other documents filed by Messrs. Brunson, Pough, and McQueen.

It appearing that Messrs. Pough, Brunson, and McQueen had elected not to appear despite notice, the court proceeded to hear argument and receive evidence regarding the motion for contempt. Clear and convincing evidence supports a finding that, not only have Messrs. Pough, Brunson, and McQueen violated the court's September 5, 2007 order by filing a Chapter 11 petition, but that these individuals have willfully delayed and obstructed the Receiver in the performance of his duties. Among other things, Messrs. Pough, Brunson, and/or McQueen, or those acting on their behalf, have withdrawn monies from various bank accounts; disbursed funds to themselves and others; interfered with the maintenance of utilities, such as telephone and electrical service, at various properties; and created new entities and bank accounts for the alleged purpose of concealing assets; all in contravention of the September 5, 2007 order.

18 U.S.C. § 401 provides that "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, . . . as . . . disobedience or resistance to its lawful writ, process, order, rule, decree, or command." To establish civil contempt, the Receiver must show (1) the existence of a valid order of which Messrs. Pough, Brunson, and McQueen had actual or constructive knowledge; (2) that the decree was in the Receiver's "favor," (3) that Messrs. Pough, Brunson, and McQueen by their conduct violated the terms of the order, and had knowledge of such violations; and (4) that the Receiver suffered harm as a result. See JTH Tax, Inc. v. H&R Block Eastern Tax Svcs., Inc., 359 F.3d 699 (4th Cir. 2004) (citing Ashcraft v. Conoco, Inc., 218 F.3d 288, 301 (4th Cir. 2000)).

In this case, the court issued a clear and unambiguous order on September 5, 2007 that was provided to Messrs. Pough, Brunson, and McQueen by Mr. Pride. The September 5, 2007 order prohibited certain conduct and required cooperation with the Receiver. The court finds that,

although Messrs. Pough, Brunson, and McQueen had notice of the order, they have not diligently attempted in a reasonable manner to comply. To the contrary, clear and convincing evidence supports a finding that Messrs. Pough, Brunson, and McQueen have violated the order by actively attempting to obstruct the responsibilities of the Receiver in the manner set forth hereinabove. The Receiver has been hindered in his duties as a result.

Based upon their actions in failing to attend a properly noticed hearing and in deliberately violating an order of this court, it appear that Messrs. Pough, Brunson, and McQueen should be held in civil contempt. Accordingly,

Messrs. Pough, Brunson, and McQueen hereby are ORDERED TO SHOW CAUSE why they should not be held in civil contempt and punished for their actions. Messrs. Pough, Brunson and McQueen are advised that they are subject to the imposition of sanctions, including but not limited to fines and incarceration, for the purpose of enforcing compliance with the court's September 5, 2007 order.

The court shall hold a show cause hearing on Wednesday, November 28, 2007 at 9:30 AM. Messrs. Pough, Brunson, and McQueen are advised that at the hearing they will be given a reasonable opportunity to meet the findings set out herein and to present evidence or testimony by way of defense or explanation, or in extenuation of the findings and in mitigation of the penalty to be imposed. Mr. Pride is directed to provide notice of the hearing on Messrs. Pough, Brunson, and McQueen. The court will also consider at that time Mr. Pride's continued representation of Messrs. Pough, Brunson, and McQueen, as well as the necessity of extending the preliminary injunction

issued pursuant to 21 U.S.C. § 853(e)(1)(B).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

November 15, 2007.