

U.S. BANKRUPTCY COURT
District of South Carolina

Case Number: 05-06101

ORDER

The relief set forth on the following pages, for a total of 16 pages including this page, is hereby ORDERED.

FILED BY THE COURT
05/02/2008



Entered: 05/02/2008

US Bankruptcy Court Judge
District of South Carolina

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

Donald H. Nettles,

Debtor(s).

C/A No. 05-06101-DD

Chapter 7

ORDER

THIS MATTER came before the Court for hearing on March 4, 2008 on 1) the objection of Robert F. Anderson, the chapter 7 trustee (“Trustee”), to Claim #13¹ filed by Larry T. Nettles (“Claimant”), 2) a motion for sanctions relating to discovery taken in connection with the claims objection, and 3) a motion for contempt arising from Claimant’s failure to obey orders of this Court. Trustee appeared by counsel and Claimant appeared *pro se*.

I. Objections to Claims

Claimant is the brother of Donald H. Nettles (“Debtor”). Members of the Nettles family have been involved in litigation for approximately ten (10) years concerning the probate estates (and related trusts) of Debtor’s parents. Claimant and Debtor have also engaged in litigation over business transactions involving the two of them and other family members. On May 16, 2005 three of Debtor’s creditors filed an involuntary chapter 7 bankruptcy petition against him. Debtor failed to answer the involuntary petition and an Order for Relief under Chapter 7 was entered by the Court on June 29, 2005. Trustee has served since appointment by the United States Trustee.

¹ The proof of claim registered as #14 on the claims docket is the first proof of claim mailed to the court by Larry Nettles. He mailed an amended claim to the court a short time later. The amended claim arrived first and was docketed first, as claim #13. A previous order of the court, with Larry Nettles’ consent, disallowed claim #14.

Claimant filed a proof of claim on November 23, 2005 in the amount of \$8,000.00 “unsecured” and \$1,405,177.38 “secured priority.” The filing indicates that the basis of the secured claim is a “court judgment”, but does not supply the date the judgment was obtained or attach a copy of the judgment. Claimant attached to the proof of claim a summary, identical to one filed with claim #12 by his sister but for the additional handwritten notations “1/3 JPN Trust” and “1/2 Southwest Holdings.” There is no additional documentation of the basis of the claim.

Claimant is an insider as defined by the Bankruptcy Code. “The term ‘insider’ includes, if the debtor is an individual, [a] relative of the debtor.” *11 U.S.C.*

*101(31)(A)(i).*² In this Circuit, proofs of claim by “insiders” are analyzed as follows:

The creditor's filing of a proof of claim constitutes prima facie evidence of the amount and validity of the claim. *11 U.S.C. § 502(a); Fed. R. Bankr. P. 3001(f)*. The burden then shifts to the debtor to object to the claim. *11 U.S.C. § 502(b); Finnman*, 960 F.2d at 404. The debtor must introduce evidence to rebut the claim's presumptive validity. *Fed. R. Bankr. P. 9017; Fed. R. Evid. 301; 4 Collier at P 501.02[3][d]*. If the debtor carries its burden, the creditor has the ultimate burden of proving the amount and validity of the claim by a preponderance of the evidence. *Id. at P 502.02[3][f]*. The creditor's burden is heightened when it is an "insider" of the debtor. *See Pepper v. Litton*, 308 U.S. 295, 306, 84 L. Ed. 281, 60 S. Ct. 238 (1939)... An insider's dealings with a bankrupt [individual] are ordinarily subject to "rigorous" or "strict" scrutiny. *Fabricators Inc. v. Technical Fabricators, Inc.*, 926 F.2d 1458, 1465 (5th Cir. 1991); *Brewer v. Erwin & Erwin, P. C.*, 942 F.2d 1462, 1465 (9th Cir. 1991); *In re Inter-Island Vessel Co., Inc.*, 98 B.R. 606, 608-09 (Bankr. D. Mass. 1988). In such a situation, the "burden is on an insider claimant to show the inherent fairness and good faith of the challenged transaction." *Id.*

Stancill v. Harford Sands Inc. (In re Harford Sands Inc.), 372 F.3d 637, 640-641 (4th Cir. 2004).

Claimant filed a proof of claim in this case and it is entitled to a presumption of validity. The Trustee objected to Claimant’s proof of claim. A trustee has standing to

² Further references to the Bankruptcy Code shall be by section number only.

object to claims. § 704(a)(5). At the hearing Trustee offered testimony to rebut the presumption of validity. The Trustee called Debtor as a witness. Debtor testified that he owed Claimant \$8,000 from the sale of property in connection with their former business, a tractor dealership. Certain real estate was sold at foreclosure and Debtor testified that the proceeds, in excess of the first and second mortgages, are being held in trust pending a ruling on entitlement to the proceeds but Debtor stated he believed \$8,000 was the amount owed Claimant. Debtor testified that he owed no other money to the Claimant.

Trustee testified that he had thoroughly investigated Larry Nettles' claim against the estate and was unable to find a basis for any of the matters set forth in the summary attached to the proof of claim. Trustee testified in detail as to the documents he reviewed relating to the claim. The testimony of the Trustee and Debtor is sufficient to rebut the presumption of the validity of the claim and the ultimate burden of proof shifts to Claimant to prove Debtor owes him the amount claimed. Claimant's testimony is that the claim arises from the fraud and/or misappropriation of assets by Debtor. However, Claimant offered no evidence supporting the amounts listed on his proof of claim.

The first matter on the summary is "Winn-Dixie stock – valuation as of 1/4/99" in the amount of \$19,992.06. The evidence indicates that this stock was held in one of the trusts involved in the probate litigation. A final un-appealed order by the state court provides that Debtor was not responsible to Claimant for the loss of value in the stock. Claimant offered no evidence showing Debtor was liable to Claimant for the Winn-Dixie stock.

Second, Claimant lists "Loan to NetCo from the estate" in the amount of \$10,000. Debtor testified that he knew nothing of this and the Trustee stated that he did not find

any support for the claim in Debtor's records. No evidence was offered by Claimant proving this aspect of the claim.

The next item listed on the summary is "Georgia Pacific and CP&L stock" in the amount of \$2,500.00. The testimony indicates that this stock is held in one of the two trusts. Debtor and Trustee testified that the stock remains in the trust, and that Claimant still owns his share of the trust at issue. Claimant offered no evidence that Debtor owes him any money associated with this stock.

The next matter on the summary is "1221 Guignard property – secured by note" in the amount of \$95,252.12. The evidence shows that this real estate was held by a corporation in which Claimant and Debtor were shareholders. This property was mentioned numerous times at the hearing, but at no time did Claimant offer any evidence that Debtor owed Claimant money in connection with this property. He made unsubstantiated accusations that Debtor "cheated" him out of money while they were engaged in business together.

The fifth and sixth matters on the summary are "JPN Estate" and "MBN Estate" with amounts listed as \$225,558.93 and \$618,608.41, respectively. There was no testimony supporting these claims. Claimant alleges that Debtor misappropriated assets of the two trusts; however, Claimant offered no evidence in support of these allegations. When asked at the hearing Claimant stated that he did not know the amount Debtor owed him in regard to the trusts. Claimant contends that the state court litigation must be allowed to proceed before he will know the amount Debtor owes Claimant. Regardless, Claimant offered no evidence pertaining to these amounts and could not explain the

figures.³ At the very least, the evidence relevant in the state court lawsuits may have been helpful to the Court for proof of claim purposes but no such proof was offered.

Claimant lists three other amounts on the summary, two of which are hand written entries. Claimant offered no testimony as to the remaining portion of the summary. The crux of Claimant's testimony is that Debtor "cheated" him and owes him money. For example, Claimant testified that Debtor sold a tractor from a business he and Claimant conducted. Claimant stated that the sale was for cash and that Debtor kept the money rather than depositing same into the business. If this is true, Debtor owes money to the business but not necessarily to Claimant as the business had expenses that were not paid.

None of the testimony or other evidence offered by Claimant proves in the slightest way that Debtor owes Claimant anything other than \$8,000. That sum is held for distribution as a surplus following foreclosure of corporately owned real property in which Debtor and Claimant may have some interest. It should not be payable from this bankruptcy estate. Claimant's proof of claim #13 is disallowed.

II. Motion for Sanctions

Trustee filed a motion for sanctions against Claimant on September 27, 2007. Trustee asks for sanctions pursuant to Fed. R. Civ P. 37(b)(2) made applicable to this matter pursuant to Fed. R. Bankr. P. 7037 and 9014. The Trustee objected to Claimant's proof of claim because no supporting documentation was attached and because the matters reflected on the summary attached to the proof of claim were inconsistent with documents the trustee had reviewed. Trustee stated that he needed to evaluate the validity of the claim. To determine the validity of the claim Trustee noticed a deposition

³ Claimant said that his former attorney and his brother-in-law computed the figures, but he could not explain the basis for the figures.

of Claimant pursuant to Fed. R. Civ P. 30 on July 31, 2007. Trustee also requested that Claimant produce documents in support of his claim. The deposition was rescheduled for August 2, 2007 at the request of Claimant.

On August 2, 2007 Claimant appeared at the scheduled time and place but refused to answer questions because he claimed the court reporter was not "certified." That same day Trustee filed a motion to compel Claimant's deposition. Claimant filed a *pro se* response with the Court on August 8, 2007 in return to Trustee's motion to compel. In his response Claimant stated that he refused to answer questions because the court reporter showed up 45 minutes late and was "wearing a white T-shirt with a beer Adv. on back and looked like he has a hangover from last night" (sic). The Court heard the motion to compel on August 21, 2007. At the hearing counsel for Trustee denied that the court reporter was "hungover," but did acknowledge making the Claimant wait for some time in an empty waiting room and that neither he nor the court reporter were dressed in business attire.

The Court noted concern over Claimant's allegations and entered an order setting a deposition date of September 17, 2007 and requiring Claimant to produce, at the scheduled deposition, any documents in support of his claim. The order required production of any document Claimant planned to offer as evidence of his claim and limited the admission of any document as evidence at the claims objection hearing to documents produced at the deposition.

Claimant attended the Court ordered deposition on September 17, 2007, but his conduct was hostile and abusive towards Trustee's counsel, calling counsel "feeble minded," "a vulture sitting on a fence", a "jerk ," "stupid," stating counsel had

"Alzheimer's", had "not enough brains," is "slow," and a "crooked lawyer." He threatened Trustee and his counsel with lawsuits and disbarment. Trustee's counsel concluded the deposition after Claimant referred to him in a vulgar way. Claimant then referred to counsel's wife in a lewd and inappropriate manner. Trustee filed the present Motion for Sanctions and a Motion for Contempt on September 27, 2007. The Court held the first hearing on these matters on November 6, 2007. In an order entered November 7, 2007 the Court stated,

The trustee was unable to complete the deposition of Larry Nettles that commenced September 17, 2007. Larry Nettles' conduct caused the failure of discovery. Mr. Nettles repeatedly acted in a fashion that was not civil, called the attorney for the trustee names, and made disparaging remarks to and concerning counsel. In the end Mr. Nettles made vulgar suggestions. Counsel is not expected to suffer these indignities and continue with a deposition.

In re Nettles, C/A No. 05-06101-DD, slip op. (Bankr. D.S.C. November 7, 2006).

At the November 6, 2007 hearing Claimant alleged that Trustee's counsel "goaded" him into the misconduct. The Court ordered a further deposition on November 27, 2007 and required that it be recorded by both auditory and visual means so the conduct of both parties could be observed. The order instructed Claimant to "answer the questions posed to him and ... [to] be civil in his responses. Mr. Nettles is to refrain from rude comments, name calling, disparaging remarks, and vulgar or lewd remarks and utterance. Mr. Nettles is to refrain from threats against or vulgar comments concerning counsel, the trustee or their families." *Id.*

Claimant appeared at the November 27, 2007 deposition, and was again hostile. The video deposition shows Claimant's inappropriate behavior including raising his

voice, acting in an aggressive manner towards Trustee's counsel, and refusing to answer numerous questions.

Pursuant to Fed. R. Civ. P. 37 the Court may award discovery sanctions against a disobedient party. The Rule provides:

(b) Failure to Comply with a Court Order.

(2) Sanctions in the District Where the Action Is Pending.

(C) Payment of Expenses. Instead of or in addition to the orders above, the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.

The Court's November 7, 2007 order required Claimant to "answer the questions posed to him and ... [to] be civil in his responses." Claimant did not and was not; rather, he was extremely hostile, at least during the portion of the deposition the Court reviewed.

Claimant appeared aggressive and did not respond to many of counsel's questions.

Trustee's counsel did nothing that would cause such conduct by a reasonable person.

Claimant stated that counsel "kept bringing things back up," indicating that was the reason he became hostile and nonresponsive. Claimant was clearly irritated because counsel asked him the same question multiple times. However, from the record of the video deposition it is clear that counsel asked the same or similar questions multiple times because Claimant was not responsive to legitimate questions.

Claimant failed to comply with the Court's November 7, 2007 order. He was nonresponsive to counsel's questions and did not behave in a civil manner. His actions were without substantial justification. Trustee filed an affidavit of fees and cost pursuant to Fed. R. Civ. P. 54(d). After review, the Court finds that Trustee is entitled to fees in

the amount of \$4,232.00 and costs in the amount of \$4,744.40. Claimant is ordered pursuant to Fed. R. Civ. P. 37(b)(2)(c) to pay fees and costs in the amount of \$8,976.40.

III. Motion for Contempt

Trustee moves that Claimant be adjudged in contempt of Court for violation of several Court orders. Trustee seeks a remedy in the nature of civil contempt – for the purpose of ensuring future compliance with these orders. The conduct which aggrieves Trustee took place outside the presence of the Court. Since the inception of this case it has been Claimant’s practice to send letters by telephonic-facsimile to the Trustee, the Court, or both. These letters include obscenities, abusive and uncivil language, make threats or inappropriate remarks about the Trustee, his counsel, or their respective family members, have included disparaging comments about the Court, and are sent to the Court in violation of Fed. R. Bankr. P. 9003(a). The Court has warned Claimant about these letters, both verbally in open court and by written order, numerous times. The Court has specifically ordered Claimant to send no further letters and has ordered the Claimant to be civil.

The Court’s order of August 4, 2006 states, in part,

I take this opportunity to express my concern with what I consider the lack of civility between the parties. The American judicial system is an adversary system; simply meaning that opposing parties present, under established rules and procedures, a dispute in which they have an interest to an impartial decision maker. It in no way suggests that the parties are free to express hostility towards one another. This Court will not tolerate from either party any language in any document, pleading, or motion, or conduct at any hearing that is not civil in tone or that is vulgar, offensive or threatening. While sanctions were not considered today, sanctions may be appropriate for procedurally deficient motions filed in the future and for incivility, vexatious litigation, or the raising of objections and requests for relief that are without merit....

There should be no further correspondence addressed or copied to the Court or the presiding judge (other than cover letters for pleadings, when necessary or correspondence permitted by chambers guidelines – for example timely requests to reschedule or continue a hearing), as such is improper *ex parte* communication and an attempt to influence the court.... All requests for relief must be in the form of pleadings, and no other form of communication with the court is permitted. Any further correspondence will be disregarded and may be cause for sanctions against the offending party.

In re Nettles, C/A No. 05-06101-DD, slip op. (Bankr. D.S.C. August 4, 2006).

An order admonishing Claimant for his conduct was entered on September 20, 2007 stating in part,

This order is made in the bankruptcy case of Donald Nettles and not simply in the adversary proceeding, although it applies to all adversary proceedings and contested matters in the bankruptcy case. The order was orally issued to ensure Larry Nettles' understanding of the order and the seriousness of the matter....

Mr. Nettles is in violation of the order of August 4, 2006. Because he is proceeding without counsel and may be confused by the process; and resolving in his favor for the moment all indications of his contempt for the Court, the Court admonishes Mr. Nettles for his violation of the prior orders of the Court. This admonishment is the least act the Court can undertake in furtherance and enforcement of its orders. The Court renews its instruction that Mr. Nettles not correspond with the Court, except to respond to a letter from the Court, to request a continuance or as otherwise permitted by chamber's guidelines. Further, Mr. Nettles is not to provide the Court with copies of correspondence to others.

Mr. Nettles is further admonished that his statement that the pretrial conference should be in front of a real judge and not this Judge and his rhetorical question "who is trying to screw me this time Anderson & Duncan or Anderson only" are not acceptable. This admonishment is a warning of the danger of Mr. Nettles' offense and a caution to him. Mr. Nettles' statements and his conduct are improper. The purpose of this order is to afford Mr. Nettles one final opportunity to comport himself with the rules and orders of this Court and to conduct himself in a civil manner during these proceedings. Mr. Nettles is to be aware that a hearing on sanctions or reimbursement of the costs and expenses of other parties, including the bankruptcy estate, may result from further violations of the orders of this Court and from the failure to act civilly in these proceedings. Remedies ranging from monetary sanctions or penalties, striking of

pleadings, and a reduction or set-off from claims are possible; and are not exhaustive of the possibilities. Other, more severe penalties are possible for conduct in contempt of court.

In re Nettles, C/A No. 05-06101-DD, slip op. (Bankr. D.S.C. September 20, 2006).

After entry of these orders, in complete disregard of this Court's orders, Claimant continued to send letters to the Court and to express himself in inappropriate ways. The following is a list of letters (entered collectively as Trustee's Exhibit #3) sent by Claimant with an annotation⁴ of the violation of the August 4, 2006 and September 20, 2007 orders:

<u>Recipient</u>	<u>Date</u>	<u>Exhibit #</u> ⁵	<u>Offensive language or other violation</u>
Trustee	9-26-06	#1	Page 1: Calls Trustee a "two-bit lawyer" Page 2: "I'm writing a motion for a new Judge & new District Court to hear this matter. Not your rubber stamp Judge."
Trustee	9-30-06	#2	"You are a sorry red neck non paying Pecker head. I will see you disbarred from being a trustee and attorney."
Trustee	10-5-06	#3	"get off your fat ass."
Trustee	10-10-06	#4	Calls Trustee a "deadbeat."
Trustee	10-16-06	#5	(1) "get off your fat ass." (2) "I have to take you before your dumb Judge friend."
Trustee	10-17-06	#6	"If you and your dumb Judge [unintelligible word] know real estate law."
Trustee	10-24-06	#7	Calls Trustee a "dumb ass."
Trustee's counsel	10-30-06	#8	Referring to outside counsel: "You need to put on a face over your ugly self. I got sick of looking at you and your dumb ass (name of associate). What happened did you and (name) break up your action on the side? P.S. You also need to get some good court attire, maybe a dress. You might not look like a man."
Trustee	10-31-06	#9	"Tell (attorney) to stop dressing like a man."
Trustee	11-15-06	#10	(1) "You must be the dumbest trustee in U.S.A." (2) Refers to Trustee's daughter as "ugly."
Trustee	11-16-06	#11	(1) Calls Trustee a "Fat Boy." (2) Referring to the Court: "Your little boy Judge can't help you..."
Trustee	11-27-06	#12	(1) "you sorry ass deadbeat." (2) Referring to Trustee's counsel: "your dumb ass"

⁴ It is regrettable that the vulgar and rude language of these letters must find a place in an order of the Court but findings of fact are necessary and the parties are entitled to a record.

⁵ All of the letters entered collectively as Trustee's Exhibit 3 are also individually pre-marked as Exhibit #1, #2, #3, etc. For ease of reference this column refers to the pre-marked numbers on each individual letter.

			attorney...." (3) Referring to the Trustee and the Court: "I'm filing a motion for a new Judge and trustee on your slack ass handling of this case."
Trustee and Trustee's counsel	12-5-06	#13	Calls Trustee a "sorry ass."
Trustee CC: Court	12-14-06	#14	(1) "...[you] showed your ass. You must be a real low-life." (2) Copied to the Court in violation of Court order.
Trustee's Counsel CC: Court	1-8-07	#15	(1) Referring to Trustee's counsel: "...[you] are a sorry lawyer and trustee." (2) Copied to the Court in violation of Court order.
Trustee	1-11-07	#16	(1) "...you are a deadbeat..." (2) "You are a sorry excuse for a human being. You screw everyone you deal with."
Trustee	1-12-07	#17	Refers to Trustee as a "deadbeat."
Trustee CC: Court	1-17-07	#18	(1) "They are playing you like a yo-yo and you are two [sic] dumb to see it." (2) "You are a very bad business man or on the take..., which is it?" (3) Copied to the Court in violation of Court order.
Trustee's Counsel	1-21-07	#19	(1) "...you and [Trustee] must be dumb." (2) Referring to a letter sent by Trustee's Counsel informing Claimant that he is not an attorney and cannot represent his wife in Court: "I can represent [my wife's] affairs.... I have a notarized power of attorney from her. P/S I don't want to be an attorney. I would rather pump sewer out of septic tanks. You are at the bottom of the barrel." The letter is signed: "Beware" signature "Govern yourself accordingly."
Trustee	1-22-07	#20	Referring to a letter Claimant sent to the Court requesting a continuance: "as of today I have not heard from [the Judge]. I have to take a mandatory class for the Red Cross on 1-23-07.... If ya'll are that low to have court go ahead. That [sic] the kind of people you and the Judge are. Low-life."
Trustee	2-3-07	#22	Copied letter to the Court in violation of order
Trustee	2-8-07	#24	"I'm writing a letter to all parties in this case and show them you are one big screw-up and we need to take a class action suit against you and [the] Judge."
Trustee	2-14-07	#25	(1) "You are too dumb to see what is going on." (2) "...the ACLU will love to get your fat ass." (3) Calls Trustee a "sorry bastard." (4) Calls Trustee an "asshole." (5) "Your name is at the bottom of all lawyers in SC I have checked." (6) "I don't need a lawyer just a fair Judge to have the case not paid for by you." But this two [sic] will come to an end. We will have a new Judge from a different Court. Not one that you control." (7) Calls Trustee a "dirty lawyer." (8) "I will go to the highest Court in the land to get your fat ugly ass. I see where your daughter get [unintelligible word] from screwing anyone." (9) "Don't try and not mail me my letter. You and [the Judge] are trying to cover up."

Trustee	5-17-07	#31	"...you 'low rate white trash' you will burn in hell for screwing people. You better enjoy yourself now."
State court counsel to trustee	6-4-07	#32	Copied letter to Bankruptcy Court in violation of order.
Trustee	6-6-07	#33	Copied letter to Court in violation of order.
Trustee	6-11-07	#34	Copied letter to Court in violation of order.
Court	8-24-07	#36	Letter sent directly to the Court in violation of order.
Trustee	8-28-07	#37	Copied letter to Court in violation of order.
Trustee	9-11-07	#38	(1) "You are a big fat head. Dumb." (2) Copied letter to Court in violation of order.
Trustee	9-21-07	#39	(1) Calls Trustee a "sorry crook." (2) Copied letter to Court in violation of order.
Trustee	2-5-08	#40	(1) "You will go to jail for fraud you sorry crook. You like screwing people. Do you do the same to your daughter?" (2) Refers to Trustee's counsel as "dumb."
Trustee	2-21-08	#41	"You will burn in hell for screwing all the good people you are screwing."

Bankruptcy Courts have the inherent power to enforce the orders they enter through the utilization of civil contempt. In *In re Walters* the Fourth Circuit Court of Appeals states,

We believe that when a bankruptcy court uses civil contempt to enforce a proper order that such power under *Northern Pipeline [N. Pipeline Constr. Co. v. Marathon Pipe Line Co., 458 U.S. 50]* is also "incidental to Congress' power to define the right that it has created." See *Kellogg v. Chester*, 71 B.R. 36, 37-38 (Bankr. N.D. Ohio 1987). If Congress can constitutionally create legal presumptions, assign burdens of proof and prescribe legal remedies for Article I courts, it seems to follow that it can constitutionally grant them the power to enforce their lawful orders through civil contempt. Determining if a party has committed civil contempt involves essentially only consideration of whether the party knew about a lawful order and whether he complied with it. Such a determination does not involve private rights under non-bankruptcy law and does not offend the Constitution, even under the plurality view in *Northern Pipeline*. It follows that we are of opinion the delegation of civil contempt power to the bankruptcy courts by *11 U.S.C. § 105(a)* does not offend the Constitution as in violation of separation of powers.

In re Walters, 868 F.2d 665, 670 (4th Cir. 1989).

As the *Walters* Court states, the test is simple. Did Claimant know about the August 4, 2006 and September 20, 2007 orders? If so, did he violate them? The answer

to both of these questions is an unqualified yes. Claimant was served with both orders and acknowledged receipt on several occasions. Secondly, Claimant was reminded of the orders at multiple hearings and instructed to comply with the orders. Claimant had knowledge of both orders, and, as reflected by the quotes from the letters reflected in the chart above, there is no question Claimant violated the orders.⁶

The Court has extended considerable leniency to Claimant based on his status as a *pro se* litigant. Claimant has been warned verbally, on countless occasions, and by written order twice, to conduct himself in a civil and appropriate manner. The Court can no longer ignore Claimant's defiance. He is abusing the judicial system and is increasing the costs of administration of this case exponentially. The Court finds Claimant in civil contempt of the August 4, 2006 and September 20, 2007 orders.

There are two types of contempt, criminal and civil. Criminal contempt sanctions are punitive in nature and are usually imposed retrospectively for a completed act of disobedience where the contemnor cannot avoid the sanction through compliance. *See Int'l Union v. Bagwell*, 512 U.S. 821, 826 (U.S. 1994). Civil contempt sanctions are those designed to compel future compliance with a court order and are considered to be coercive and avoidable through obedience. *Id.* The Court has determined that the sanctions in this case should be for civil contempt.

The Court may issue civil contempt sanctions to compensate the Trustee for losses sustained, such as attorney's fees associated with the violations. *See Id. (quoting United States v. Mine Workers*, 330 U.S. 258, 303-304, 91 L. Ed. 884, 67 S. Ct. 677 (1947))

(“A contempt fine accordingly is considered civil and remedial if it either

⁶ Trustee's Exhibit 3 actually contains 41 letters, but the Court only lists the letters that pertain to the Bankruptcy Court. Letters sent to the attorneys handling the state court litigation have not been included. They are a matter for another judge.

'coerces the defendant into compliance with the court's order, [or] . . . compensates the complainant for losses sustained'"). Claimant is fined \$2500, to be paid to the bankruptcy estate in reimbursement of the expenses incurred for Trustee's lawfirm. To further ensure future compliance with the Court's previous orders Claimant shall be fined \$200.00 for the next violation and \$200.00 for each violation thereafter. Additionally, further disobedience may result in a criminal contempt proceeding.

Conclusion

Larry T. Nettles' claim is disallowed. Larry T. Nettles shall pay fees and costs to the Trustee in the amount of \$8,976.40 as a sanction for abuse of the deposition process. Larry T. Nettles is in contempt of the Court's August 4, 2006 and September 20, 2007 orders and is fined \$2500 payable to the bankruptcy estate in reimbursement of the costs and expenses to the estate of Trustee's lawfirm in connection with his contumacious acts and he shall be further fined \$200.00 for the next and each subsequent violation of the orders.

AND IT IS SO ORDERED.

Columbia, South Carolina
May 2, 2008