

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 21-61176-CIV-SINGHAL/VALLE

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

PROPERTY INCOME INVESTORS,
LLC, *et al.*,

Defendant.

RONALD A. DURING'S RESPONSE TO ORDER TO SHOW CAUSE

Third Party, Ronald A. During (“**Mr. During**”), respectfully submits his Response to the Court’s Order to Show Cause dated February 6, 2024 (the “**Show Cause Order**”). The grounds for Mr. During’s Response are set forth below.

On February 5, 2024, Miranda L. Soto, in her capacity as Receiver (the “**Receiver**”) for the Defendants, filed her Motion to Hold K.Tek Systems, Inc. and/or Kimberly During and/or Ron During in Contempt and for Sanctions (the “**Contempt Motion**”).

The Receivership hired K.Tek Systems, Inc. (“**K.Tek**”) to create and maintain a website for purposes of communicating with defrauded investors and the public concerning the Receivership’s activities, distributions, court documents, notices, claims and other functions pertaining to the Receivership (the “**Website**”). The website was hosted by K.Tek on servers controlled by K.Tek and located online using a URL owned by the Receivership and solely controlled at all times by K.Tek (<https://www.propertyireceivership.com>).

K.Tek is solely owned and controlled by Kimberly K. During (the “**Owner**”). The Owner previously employed her husband, Mr. During, as an independent contractor at K.Tek. While the Durings were going through a contested divorce, the Owner inexplicably fired Mr. During on June

16, 2023, simply telling him to stop working for K.Tek. Mr. During has not worked at K.Tek for nearly eight (8) months. It does not appear that the Owner is able to competently handle running K.Tek without Mr. During. The Owner apparently cannot answer even basic customer inquiries.

The Owner has long suffered from paranoia and multiple diagnosed mental health conditions, including paranoia, anxiety, Complex PTSD, bipolar disorder, and severe depression. The Owner was subject to a civil commitment multiple times under the Florida Baker Act, including most recently in January 2020 at HCA Florida Largo West Hospital. The Owner also received inpatient mental health treatment in 2017 after being incarcerated for domestic violence battery against her daughter, who was a minor at the time. The Owner was also previously arrested for battery against Mr. During in 2011. On information and belief, the Owner held herself out to the Receiver as a “victim” of domestic violence, as opposed to being a repeat perpetrator of domestic violence.

The dispute between K.Tek and the Receiver started on or about January 17, 2024, when the Website was no longer accessible online. On information and belief, the Owner refused to speak to the Receiver, her counsel, or the Receiver’s IT Professionals on the telephone or otherwise actually do anything to cooperate with the Receivership. Apparently, the Owner’s sole response to various clients whose websites were also down was to blame the problem on Mr. During and report that K.Tek was unable to help any of the customers restore their websites. Rather than take any actual measures to restore the sites, the Owner told customers to contact the Federal Bureau of Investigation at its Internet Crime Complaint Center (IC3). Rather than hiring or consulting real professionals to help, the Owner complained that the apparent failure of one of her servers was “by design” and alleged that Mr. During was holding the websites “hostage.”

The reality of the situation is that Mr. During had been fired from K.Tek in the summer of 2023, and he was not responsible for any issues with K.Tek's servers in the winter of 2024. Several customers contacted Mr. During in January 2024 when the problem arose at K.Tek. The customers reported that the Owner had directed them to contact the FBI because of alleged wrongdoing by Mr. During. Mr. During offered to assist the customers with rebuilding their sites, but he did not control access to the domain names or website data for the customers. K.Tek indisputably has sole control over the domain names and the website data.

With respect to the Receivership's Website, Mr. During was first contacted by Emilio Yepez of Lighthouse Internet Media on February 2, 2024. Mr. Yepez's initial correspondence suggested that Mr. During had been managing the Receivership's "domain" and the Receivership needed his help. The initial correspondence also suggested that Mr. During's company was responsible for the website and warned that the issue would be escalated to the Court if Mr. During did not assist. This correspondence was misguided to the extent that Mr. During had absolutely no access to the Website's domain name, had no current ownership or affiliation with K.Tek, and could not simply "release" the requested files and database. Less than 10 minutes later, the Receiver herself sent an email to Mr. During and demanded that he immediately turn over the HostGator and/or any other credentials necessary. Mr. During had no recollection of any K.Tek sites being hosted on HostGator, and he absolutely could not have the HostGator credentials because K.Tek never used HostGator to host any client websites when Mr. During worked at the company.

If the Website was on HostGator, this must have been a new development. In email correspondence between K.Tek and Mr. Yepez, the Owner apparently refused even to identify where the Website was hosted or clarify to Mr. Yepez whether K.Tek even used HostGator servers

or had an account there at all. Rather than providing any genuine assistance, information, support, or intelligent response, the Owner apparently directed all customers simply to call the FBI and report Mr. During for “internet crimes.” It is beyond the pale that the Owner was not willing or able to confirm where the site was hosted or provide login credentials for a service that Mr. During never even used and did not even exist while Mr. During was at K.Tek.

On Monday, February 5, 2024, in response to the Receiver’s email dated Friday, February 2, 2024, Mr. During wrote the following:

I wanted to confirm with you that I received this email as well as the email from Emilio requesting some information, assistance and or help for the site propertyireceivership.com. There are some things that need to be cleared up as it pertains to the site for propertyireceivership.com.

propertyireceivership.com was a web site developed by K.Tek Systems, Inc.
propertyireceivership.com is hosted on the network of K.Tek Systems, Inc.
The domain name, propertyireceivership.com, is a domain name managed by K.Tek Systems but owned by Property Income Investors Receivership.

For my involvement with the site and any support of it, that ended on June 16, 2023 when I was terminated from K.Tek Systems. I’m not an owner of the company in any way, and I wasn’t a employee. Just a 1099 contractor. From that date until now, I don’t have any access to the network or files for K. Tek Systems network or backups.

The full responsibility of the site domain name, hosting of the site, including backup files are all with K.Tek Systems. All agreements were with K.Tek Systems, not me personally or my new company.

I do maintain several receiverships sites and understand how important the site is to have online. I would love to assist in any way possible, to give you guidance on what is needed and how to achieve get the site back online the quickest. I can even offer a rebuild of the site myself since I was the original person who did it.

In all, if we move quickly on this a domain name transfer would need to be done first to get the domain updated to the Receivership/Firm, and then at that point, the domain name could be pointed to a hosting setup that has the site. If you started the forms today, the site could be online as soon as Friday of this week or Monday. The domain name transfer does take 3 to 5 business days.

I have been helping companies with this type of update on a weekly basis.

Contact me back as soon as possible, or we can setup a call.

See D.E. 126-2 (Email dated February 5, 2024 at 4:07 PM).

In other words, Mr. During responded professionally and appropriately to the Receiver the next business day after receiving her February 2, 2024, email. Mr. During clarified that he did not own K.Tek and did not have access to the domain name or database. Mr. During offered to assist in any way possible, to provide guidance, or even to rebuild the Website. Mr. During offered a solution that would put the Website back online within 3 to 5 business days. Mr. During initially offered to do this work at his regular hourly rate, as he did not feel responsible for anything that the Owner or K.Tek did with HostGator or any other server that they used after his departure. Notwithstanding Mr. During's response and offer of assistance, the Receiver filed her Contempt Motion the very same day.

After receiving the Contempt Motion and Show Cause Order, Mr. During continued his offers of assistance directly to Mr. Yepez and through Counsel. On February 9, 2024, Mr. During reached out to Mr. Yepez via phone and text message. Over the weekend, Mr. During fully rebuilt the Website using the Internet Archive. On February 12, 2024, Mr. During offered through counsel to rebuild the Website but warned that he did not have access to the URL. On the evening of February 12, 2024, Mr. During uploaded the Website files to a Dropbox folder provided by Mr. Yepez, who on February 13, 2024, confirmed receipt of the rebuilt Website files.

The movant in a civil contempt proceeding bears the burden of proving by clear and convincing evidence that the respondent "violated a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court's order." *See Liberte Capital Group, LLC v. Capwill*, 462 F.3d 543, 552 (6th Cir. 2006).

The Court requires that the prior order be “clear and unambiguous” to support a finding of contempt. *Id.* Ambiguities must be resolved in favor of the party charged with contempt. *Id.*

Mr. During never took any action - let alone action with the requisite intent - to obstruct or interfere with the Receivership or its Website. To the contrary, Mr. During’s communications were timely and professional. Mr. During only tried to assist the Receiver and her new IT Professional, Mr. Yepez. Mr. During feels that the only reason he was ordered to show cause is that K.Tek and the Owner were unable or unwilling to get the Website back up. The Owner was not even able to respond intelligently to questions posed by Mr. Yepez, and she refused to speak to anyone on the telephone, instead choosing to direct everyone to call the FBI and report Mr. During, who had not been with the Company since June 2023.

For the foregoing reasons, Mr. During respectfully requests that the Court dismiss its show cause order against him.

Dated: February 13, 2024

Respectfully submitted,

/s/ Richard J. Mockler

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 13, 2024, the foregoing was electronically filed with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Richard J. Mockler