

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

Case No. 2:09-cv-229-FtM-29DNF

FOUNDING PARTNERS CAPITAL MANAGEMENT
CO., WILLIAM L. GUNLICKS and PAMELA
L. GUNLICKS,

Defendants,

ORDER

This matter comes before the Court on review of William L. Gunlicks' Pro Se Motion to Reconsider the Order of May 22, 2012 (Doc. #341) filed on June 13, 2012 by Mr. Gunlicks, and William L. Gunlicks' Pro Se Emergency Motion for Turnover of Personal Property and Items In Storage as Provided for in the Order of May 22, 2012 (Doc. #343) filed on June 26, 2012 by counsel for Mr. Gunlicks. Regions Bank filed a Response (Doc. #342) and the Receiver filed a Response (Doc. #344) to the motion to reconsider, and the Receiver filed a Response (Doc. #345) to the motion for turnover of personal property.

As a preliminary matter, the motion to reconsider will be stricken pursuant to Local Rule 2.03(d)¹ as Mr. Gunlicks is

¹"Any party for whom a general appearance of counsel has been made shall not thereafter take any step or be heard in the case in proper person, absent prior leave of Court; nor shall any party,
(continued...)

represented by counsel. The motion itself states that "the Law Offices of Robert L. Parks is still counsel of record", even though Mr. Gunlicks has had no communication with counsel for several months. (Doc. #341, ¶¶ 11, 20.) Additionally, counsel has since appeared as substituted counsel on behalf of Mr. Gunlicks by filing the motion for turnover.

In the emergency motion, Mr. Gunlicks, through counsel, seeks the release of all property and items in storage, or in the alternative, to enjoin the Receiver from converting the property and items in storage which "rightfully belongs to William L. Gunlicks." (Doc. #343, p. 6.) Mr. Gunlicks asserts that the items listed in Exhibit C were purchased with personal funds and that he stands to lose property with "tremendous sentimental and familial value, and which would operate in violation of his Constitutional due process rights." (Doc. #343, p. 3.) Counsel does not identify how Mr. Gunlicks' due process rights are violated or would be violated. Counsel also argues that the Receiver's refusal to turnover requested property, despite repeated requests, is simply for spite and unprofessional as Mr. Gunlicks does not know specifically what items are being stored and the Receiver will not provide an itemized list of the items. Further, counsel argues

¹(...continued)
having previously elected to proceed in proper person, be permitted to obtain special or intermittent appearances of counsel except upon such conditions as the Court may specify." M.D. Fla. R. 2.03(d).

that the Receiver is electing to ignore requests for turnover of clearly identified property, with receipts and an explanation. The Receiver has responded that the property in question was taken from Founding Partners offices and Mr. Gunlicks has never shown that the property was not Receivership property. The Receiver further indicates that he elected to donate the items in light of the almost \$32,000,000.00 judgment against Mr. Gunlicks, and that offers for Mr. Gunlicks to either take over the storage fees pending reconsideration, or to provide a list and description of the basis for attachment to the items, were rejected.

The Receiver's assessment of the Order (Doc. #339) is correct. The Court clearly directed that the Receiver "*either donate or turnover the furniture and equipment as best serves the interests of the receivership.*" (Doc. #339, p. 4) (emphasis added). The Court further stated "[t]he Receiver shall either donate the furniture and equipment to charity for the tax incentive, or turnover any requested furniture and equipment to Mr. Gunlicks." (*Id.*, p. 6, ¶ 4.) The Court did not require the return of the furniture and equipment to Mr. Gunlicks. Even if the items were purchased with personal funds, Mr. Gunlicks has agreed to a judgment against him for ill-gotten gains and civil monetary penalties far exceeding the value of the items seized from the offices of Founding Partners. The Court finds no basis to compel the turnover of property and will deny the motion. The Court will

require the Receiver to specify to Mr. Gunlicks the name and location of the charity.

Accordingly, it is now


ORDERED:

1. William L. Gunlicks' Pro Se Motion to Reconsider the Order of May 22, 2012 (Doc. #341) is **stricken** as Mr. Gunlicks is represented by counsel.

2. William L. Gunlicks' Pro Se Emergency Motion for Turnover of Personal Property and Items In Storage as Provided for in the Order of May 22, 2012 (Doc. #343) is **DENIED**.

3. The Receiver shall provide Mr. Gunlicks with the name and location of the charity where the property and items will be donated.

DONE AND ORDERED at Fort Myers, Florida, this 28th day of June, 2012.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record