FILED AND ENTERED

OCT 8 - 2004

Denise H. Curtis, Clerk
U.S. Bankruptcy Court for D.C.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLUMBIA

In re: GREATER SOUTHEAST COMMUNITY HOSPITAL CORP., I, *et al.*, *Debtors.*	Chapter 11 Jointly Administered Case No. 02-2250 Judge S. Martin Teel, Jr.

ORDER (Regarding Docket No. 1932)

The DCHC Liquidating Trust (the "Trust") filed a Motion and Memorandum for an Order of Contempt Directed at Melvin Redman and Scott Redman, on September 24, 2004 (the "Contempt Motion"), based upon the failure of Melvin Redman and Scott Redman (the "Redmans") to produce complete documentary responses to Rule 2004 subpoenas issued by the Trust on August 2, 2004 pursuant to orders of this Court. In light of the Contempt Motion, the opposition thereto filed by the Redmans on October 4, 2004, the reply to the opposition filed by the Trust on October 5, 2004, the arguments raised for and against the Contempt Motion at the hearing held on October 6, 2004, and the evidence presented at that hearing, the Court makes the following findings of fact:

1. On July 7, 2004, the Trust filed separate motions pursuant to Bankruptcy Rule 2004 (the "Rule 2004 Motions"). By the Rule 2004 Motions, the Trust sought leave of Court to take examinations of Melvin Redman (a former director and officer of DCHC) and Scott Redman (a former officer of DCHC). The Trust sought to examine the Redmans to assess (a) claims against the Redmans, the Partially Released Parties (as defined in the Rule 2004 Motion),

and any other officers, directors, employees, and agents of the Debtors; (b) the existence and availability of assets of the Redmans and of the Debtors' estates that were received by or transferred to the Redmans or the Partially Released Parties; and (c) the basis for Claim No. 114 filed by Melvin Redman in these jointly-administered cases. The Trust also sought to compel the Redmans to produce documents regarding (a), (b) and (c). The Trust identified each and every topic for the oral examinations as well as the request for production of documents. Copies of the Rule 2004 Motions were properly served on counsel for the Redmans.

2. On July 13, 2004, a hearing was held concerning the Rule 2004 Motions. The Redmans did not file papers concerning the Rule 2004 Motions nor did they appear in Court for the hearing. Instead, prior to the hearing on the Rule 2004 Motions, by telephone conversation, counsel for the Redmans represented to counsel for the Trust that the Redmans "have no dispute" regarding the 2004 examinations sought by the Trust or with the scope of the 2004 examination as contained in the Rule 2004 Motions. At the July 13, 2004 hearing, counsel for the Trust conveyed these representations to the Court. The Court granted the Rule 2004 Motions and signed orders providing that the Redmans would, by subpoena, be directed to produce the documents identified in the Trust's Rule 2004 Motions and be examined by the Trust on those same topics (the "Rule 2004 Order").

3. Subsequently, counsel for the Trust and counsel for the Redman's coordinated the service of subpoenas on the Redmans. Service of the subpoenas was effectuated on August 2, 2004. The subpoenas directed the Redmans to return all documents no later than August 13, 2004 at 5:00 p.m., EST.

4. On August 16, 2004, the Redmans' counsel served counsel for the Trust with documents purportedly responsive to the subpoenas. In providing this response, the Redmans did not object to any aspect of the Trust's request for production of documents.

5. On September 2, 2004, after examining the documents produced by the Redmans, the Trust wrote a letter to counsel for the Redmans. The Trust stated in that letter that the purpose of the letter was "to identify deficiencies contained in the responses of Melvin Redman and Scott Redman to the subpoenas for Rule 2004 examination issued by the DCHC Liquidating Trust. . . ." The Trust outlined the deficiencies and asked that the Redmans "correct these deficiencies so as to obviate the need for court action" no later than September 17, 2004.

6. The Redmans did not provide a supplemental response by September 17, 2004.

7. Counsel for the Trust and counsel for the Redmans spoke with each other on the phone and exchanged e-mails in an effort to resolve this matter. The Trust advised counsel to Redmans that absent consensual resolution, it would seek relief from this Court. The matter was not resolved.

8. On September 24, 2004, the Trust filed its Contempt Motion. By the Contempt Motion, the Trust seeks coercive and compensatory sanctions; it does not seek punitive sanctions.

9. On October 4, 2004, the Redmans filed their opposition to the Contempt Motion.

10. On October 5, 2004, the Trust filed a reply to the Redmans' opposition.

11. On October 5, 2004, the Redmans served upon the Trust documents they claimed cured the deficiencies.

12. On October 6, the Court held an evidentiary hearing on the Contempt Motion. At that hearing, the Trust moved into evidence several exhibits in support of its position that the Redmans were in contempt of the Rule 2004 Order.

13. Although the Redmans' counsel appeared for argument, the Redmans did not provide any evidence other than the attachments to their brief.

14. With the parties' consent, the Court accepted into evidence the attachments to their respective briefs solely for the purposes of establishing the procedural posture of this matter. Those attachments establish that (1) the Rule 2004 Motions were filed; (2) the Court granted the Rule 2004 Motions; (3) subpoenas were duly served upon the Redmans; (4) the Redmans served initial responses to the subpoenas; (5) the Trust identified deficiencies in those initial responses; and (6) the Trust sought to amicably resolve this matter without Court intervention.

In light of these findings of fact, the Court makes the following conclusions of law:

1. Civil contempt will lie only if the putative contemnor has violated an order that is "clear and unambiguous." *Armstrong v. Executive Office of the President, Office of Administration*, 1 F.3d 1274, 1289 (D.C. Cir. 1993) (citation omitted). The violation must be proved by "clear and convincing evidence." *Id.* (citation omitted). Good faith is not a defense.

2. The Court's Rule 2004 Orders were clear and unambiguous concerning the requirements imposed upon the Redmans.

3. The Trust has carried its burden, by clear and convincing evidence, in demonstrating that Melvin Redman failed to comply with the Rule 2004 Orders.

4. Melvin Redman did not comply with the Trust's subpoena *duces tecum* in a timely fashion. Melvin Redman filed a supplemental response only after the Trust filed its Contempt Motion and, even then, the evidence presented by the Trust establishes that Melvin Redman has not filed a complete response. For example, Melvin Redman has not provided any W-2 forms for 2003. During the hearing, however, the Trust demonstrated that Melvin Redman was employed during 2003 and, as a result, should have a responsive W-2 form in his possession. Also, the Trust demonstrated that Melvin Redman should have responsive documents in his possession concerning Redman Associates based upon references to Redman Associates in Mr. Redman's 2002 federal tax return.

5. The correspondence attached to Redmans' brief suggests that Melvin Redman has moved, but Melvin Redman has made no showing that would allow the Court to draw any conclusions regarding this issue.

6. The record reveals that the Trust provided Melvin Redman with sufficient time to provide the documents requested in the subpoena.

7. Finally, the Court has concluded that the Trust has not made a sufficient showing at this time that Scott Redman has violated the Rule 2004 Orders in a manner warranting a finding of contempt.

In light of these findings of fact and conclusions of law, it is hereby

ORDERED that the Trust's motion is ***granted*** with respect to Melvin Redman and ***denied*** without prejudice with respect to Scott Redman; and it is further,

ORDERED that Melvin Redman is hereby found in contempt of court for his failure to produce complete documentary responses to the subpoenas served by the Trust pursuant to the Rule 2004 Order; and it is further,

ORDERED that Melvin Redman shall file all responsive documents to the Trust's subpoena within his possession or control no later than the close-of-business on October 13, 2004; and it is further,

ORDERED that, in the event that Melvin Redman fails to provide all responsive documents by the close-of-business on October 13, 2004, a coercive sanction of $200 per day shall be imposed until he does so (and that this coercive sanction will be subject to increase in the event of continued disobedience); and it is further,

ORDERED that the Trust is entitled to compensation for bring the Contempt Motion and prosecuting the contempt hearing and, as a result, may file an application for attorney's fee and expenses; and it is further,

ORDERED that the Redmans may file an objection to the Trust's application for attorney's fees and expenses with 14 days after service of the application; and it is further,

ORDERED that the parties are directed to confer and seek agreement upon dates in October 2004 for the Rule 2004 examinations of Melvin Redman and Scott Redman and, in the event that the parties cannot agree, the Trust may file an emergency motion seeking a court order setting forth a date in October 2004 for the examinations; and it is further,

ORDERED that the denial of the motion for an order of contempt with respect to Scott Redman is without prejudice to the Trust's submission of a new motion should it determine that

Scott Redman has withheld documents within the scope of the subpoena *duces tecum* served upon him.

Dated: October 8, 2004
Washington, D.C.

S. Martin Teel, Jr.
United States Bankruptcy Judge

BAE SYSTEMS
Enterprise Systems Incorporated
11487 Sunset Hills Road
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CERTIFICATE OF SERVICE

The following entities were served by first class mail on Oct 10, 2004.

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smg District Unemployment Compensation Board, 609 H St., NE, Room 353-367, Washington, DC 20002-4347
smg +Internal Revenue Service, P.O. Box 44085, Washington, DC 20026-4085
smg +Internal Revenue Service, Special Procedures Branch, Attn: Bankruptcy Section, 31 Hopkins Plaza, Room 1120, Baltimore, MD 21201-2892
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cr +Kathy Brickhouse, 8155 Grove Street, Sunland, CA 91040-2113

The following entities were served by electronic transmission.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS (continued) *****

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

db	Doctors Community Healthcare Corporation
db	Michael Reese Medical Center Corporation
db	PACIN Healthcare-Hadley Memorial Hospital Corporat
db	Pine Grove Hospital Corporation
aty	Douglas J. Lipke
intp	Bank One, N.A.
cr	Beckman Coulter, Inc
cr	Bennie Baker
intp	Blue Cross and Blue Shield of Arizona, Inc.
intp	BlueCross BlueShield of Arizona, Inc.
cr	Boss Instruments Ltd
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intp	District of Columbia
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intp	District of Columbia Hospital Association
cr	District of Columbia Nurses Association
cr	District of Columbia Water And Sewer Authority
cr	Edward Gedraitis
cr	Emergency Care Physicians Services, Ltd.
cr	Enrique Beckmann, M.D.
cr	Epstein Becker & Green, P.C.
intp	Erin K.
cr	Eugene Adams, III, a minor
cr	Evelyn Maria Brooks
cr	Felicia Marbury
cr	Florence May Cherry
cr	Ford Motor Credit Company
intp	Fresenius Medical Care North America
cr	Fresenius USA Manufacturing, Inc.
intp	General Electric Capital Corporation
intp	General Electric Company
cr	Haemo-Stat Inc.
intp	Health Care REIT, Inc.
intp	Healthcare Management Resources, LLC
intp	Horizon Mental Health Managment
intp	Hospital Holding Corporation
intp	Inland Commercial Property Management, Inc.
op	James Mintz
cr	James Mintz Group, Inc.
cr	Janice Malloy
intp	Jermine Roberts
cr	Jillian P., a Minor
cr	Joan Redfearn, MD
intp	Joint Committee of Unsecured Creditors
cr	June McCloud
intp	Karen Dale
cr	Kelly Griffin, as Special Administrator of the Est
cr	Larry Malloy
intp	Laura F.
cr	LifeSource Blood Services, Inc.
cr	Loretta Moore
intp	M.D. Individual Practice Association,Inc
cr	MH Unlimited
intp	MRH Acquisition, L.L.C.
cr	Mallinckrodt, Inc.
cr	Maria Solorio
cr	Maria Solorio
intp	Marlene J. Minarik
cr	Marti Addams-More
cr	McKesson Automated Healthcare, Inc
intp	Medical Faculty Associates, Inc.
cr	Medical Information Technology, Inc.
intp	Medical Staffing Network, Inc.
cr	Medline Industries, Inc.
cr	Melvin Redman
intp	Merrill Lynch Capital
cr	Michael Garneau
intp	Milestone Healthcare
intp	NBF/SHA DC, LLC

***** BYPASSED RECIPIENTS (continued) *****

cr	NDCHealth Corporation
intp	NPF VI Noteholders' Subcommittee of National
intp	National Century Financial Enterprises, Inc.
op	Navigant Consulting, Inc.
intp	Official Committee of Unsecured Creditors in the N
cr	Ophelia Smith and Will Smith Jr.
intp	Optimum Choice, Inc.
intp	Pathology Associates Of Chicago, Ltd
intp	Peoples Gas Light and Coke Company
cr	Phyameria Practice Services
intp	Potomac Electric Power Company
intp	Progressive Nursing Staffers of Virginia, Inc.
intp	Progressive Nursing Staffers, Inc.
intp	Providence Hospital
intp	Provident Bank
intp	Quest Diagnostics, Inc.
cr	Rachel M.
sp	Rhiel & Associates Co., LPA
cr	Robin F., a Minor
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TOTALS: 100, * 1

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

First Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 10, 2004 **Signature:** Joseph Speetjens