

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

**IN RE: APPOINTMENT OF A SPECIAL
MASTER TO ENFORCE AN ORDER OF
THE ELEVENTH CIRCUIT COURT OF
APPEALS IN CASE NO. 19-13261-J**

No. 3:20-mc-10-HES

OSHA, U.S. DEPARTMENT OF LABOR

v.

**GREAT WHITE CONSTRUCTION, INC.,
TRAVIS SLAUGHTER,
FLORIDA ROOFING EXPERTS, INC.**

**RESPONDENT TRAVIS SLAUGHTER'S OBJECTIONS
TO SPECIAL MASTER REPORT**

The Respondent, Travis Slaughter, through counsel undersigned and pursuant to Rule 53, Federal Rules of Civil Procedure, respectfully objects to the Special Master Report (Doc. 46) in the above referenced cause dated December 1, 2021, and as grounds therefor states:

1. Rule 53(f)(2), Fed. R. Civ. P. allows, "Time to Object... A party may file objections to the master's order, report, or recommendations no later than 21 days after a copy is served."
2. On June 8, 2020, a Special Master was appointed to the above referenced cause to enforce the Eleventh Circuit Court of Appeal's order in case number 19-13261 (Doc. 1).

3. On July 15, 2020, the Special Master held a status hearing, and both the government and undersigned counsel advised the court of ongoing negotiations to resolve financial fines and penalties related to the Eleventh Circuit Court of Appeals case as well as three subsequent and unrelated OSHRC cases (administrative case numbers 20-0176; 20-0181; & 20-0182). (Doc. 9).
4. Thereafter, the government requested affidavits, and numerous documents from Mr. Slaughter in order to evaluate Mr. Slaughter's ability to pay the assessed fines.
5. While the government continued to evaluate documents provided by Mr. Slaughter and request follow up documents, the government continually advised the court of their own inability to make a decision regarding Mr. Slaughter's ability to pay \$2,202,049.41.
6. During the government's evaluation process, the Special Master held status conferences on:
 - a. September 17, 2020 (Doc. 11);
 - b. October 21, 2020 (Doc. 13);
 - c. a December 16, 2020 hearing was re-scheduled to January 13, 2021, and then the government filed a motion to continue the hearing which

was granted, and the status hearing was conducted on February 3, 2021 (Docs. 15-17, 19);

d. February 24, 2021 (Doc. 21);

e. March 24, 2021 (Doc. 25);

f. a May 19, 2021 hearing was rescheduled by the court to May 26, 2021 (Docs. 30-31);

g. June 17, 2021 (Doc. 33);

h. and August 18, 2021 (Doc 38).

7. At each status hearings, the government indicated the need for more time to evaluate Mr. Slaughter's ability to pay the excessive fine.

8. On October 6, 2021, the Special Master ordered the parties to submit proposed reports for the Special Master to submit to the Eleventh Circuit Court of Appeals. (Doc. 42).

9. The parties submitted proposed recommendations (Docs. 43-44) and the Special Master essentially entered the government's proposed recommendation without hearing. (Doc 46).

Objections:

10. Despite eight status hearings over a period of eleven months, the Special Master did not provide an opportunity for Mr. Slaughter to be heard before

entering a report finding that Mr. Slaughter had not purged himself of the court's contempt and recommending immediate incarceration.

11. Rule 53(f)(1), Fed. R. Civ. P. states, "Opportunity for a Hearing... In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions."

12. Rule 53(f)(3), Fed. R. Civ. P. defines the standard of reviewing the Special Master's factual findings as de novo all objections to findings of fact made or recommended by a master.

13. The Special Master's recommendations violate Mr. Slaughter's right to due process of law, in that, the government's empty assertions and feelings, rather than fact and evidence, were the basis for false factual findings and erroneous conclusions.

14. Examples of false factual findings made by the Special Master include, but are not limited to:

- a. Respondents have made no attempt to purge themselves (Doc. 46, page 1). The undisputed fact is that Mr. Slaughter appeared for and sat through more than 12 hours of depositions regarding his finances and

provided hundreds of pages of financial documents to the government;

- b. Respondents have paid no amount toward the \$2,202,049.91 (Doc. 46, page 2). Even though the government and undersigned counsel expressed repeatedly to the court ongoing settlement discussions, during court proceedings, Mr. Slaughter offered to pay the government a monthly amount while he was unemployed, as well as \$10,000 and the government rejected that offer;
- c. The statement in the Special Master's report that, "The claim that his [Mr. Slaughter] professional licenses were inactive was later found to be false," is misstated. Mr. Slaughter has informed the government that State of Florida licensing agencies require contracting licenses to be associated with a corporation. Separate from this requirement, there is absolutely no evidence that any permit was pulled or any work was performed when Mr. Slaughter advised his licenses were inactive. The *lack of activity* related to Mr. Slaughter's license is why he considered the licenses *inactive*. (Doc. 46, page 5). Additionally, the status of Mr. Slaughter's professional licenses is not the subject of any court imposed requirement, yet, it is used as against Mr. Slaughter in the Special Master's Report;

- d. The statement, “There is nothing in the record before the undersigned to support an inability to comply,” is based upon the government’s conjecture, as the Special Master never elicited, provided an opportunity for, or allowed a hearing where Mr. Slaughter could provide such information. (Doc 46, page 10)
 - e. Even footnote number 3 includes a false statement suggesting Mr. Slaughter, “hid in his residence,” when a United States Marshal went through a locked fence to the residence’s back yard and shot Mr. Slaughter’s dogs. (Doc 46, page 12). The truth is that Mr. Slaughter was not home, rather his daughter’s boyfriend was in the house, none of which justify why the United States Marshal entered the fenced in back yard of the property and have nothing to do with the contempt issue before the court.
15. In addition to the false information, the following additional statements are misleading at best:
- a. After Mr. Slaughter was found in contempt on January 3, 2020, the government notes Mr. Slaughter registered two corporations. Although the government makes reference to the corporations as some type of violation, nothing in any court order prohibits Mr. Slaughter from trying to restart his career. If anything, the government should

support such actions to then claim amounts toward the excessive fines. (Doc 46, pages 4-5);

- b. As referenced above, the statements that Mr. Slaughter hasn't paid any amount toward the fine implies there was an order to immediately make such a payment. No such order exists. To the contrary, the Eleventh Circuit Court of Appeal's order requires Mr. Slaughter to "(a) show cause why they are unable to do so, and (b) specify what they can pay and the timeframe within which they will pay it, and the reasons for their proposal (Order at 2-3). Mr. Slaughter complied with both conditions. In reality, the government acknowledges that Mr. Slaughter complied with the show cause instructions and timeline. (Doc. 46, page 6);
- c. The statements that Mr. Slaughter opened several bank accounts without notifying the Secretary, ignores the undisputed fact that Mr. Slaughter was unaware of the notification requirements. Moreover, the government is unable to provide anything beyond an empty assertion as to Mr. Slaughter's intentions. In fact, Mr. Slaughter did provide information regarding every single account to the government. (Doc. 46, page 6);

- d. Similar misleading statements include the government's statement that Mr. Slaughter transferred real property via quitclaim deed for an amount of ten dollars. (Doc 46, page 11). The government ignores the common document practice whereby real property deeds satisfy the consideration aspect of the statute of frauds, by listing a minimal sale amount. However, despite this common practice, the government inappropriately uses this practice as a misguided example of deception;
- e. The statement, "The Secretary produced detailed [historic] evidence of non-disclosure of financial accounts and assets," is in itself internally inconsistent. The government requested and received hundreds of pages of financial documents and information, and regardless of what documents were produced, responded that the government 'feels' there is something more. The fact the government is aware of financial accounts and assets demonstrates information was known, available and disclosed. (Doc. 46, page 11);
- f. The comment, "Even at his April 15, 2021 in-court deposition before the undersigned, Mr. Slaughter could not provide any justification or reason why he was unable to comply with these directives," is deceptive, because the purpose of the in-court deposition was to allow

the government to ask any question relating to Mr. Slaughter's finances, accounts or ability to pay. The in-court deposition was not intended to take the place of a hearing where Mr. Slaughter could submit evidence related to the issues before the Special Master. To date, Mr. Slaughter has not been given the opportunity to defend himself or provide answers related to the issues related to contempt. (Doc 46, page 12).

16. Although the government's proposed report and the Special Master's subsequent report state a defense of an inability to pay requires Mr. Slaughter, "to go beyond mere assertion of inability," Mr. Slaughter was never provided the opportunity to explain to the court the numerous circumstances which have financially destroyed his business and life due to the government's persistent targeting of him in these cases. (Doc. 46, page 8).
17. While the Special Master's Report states, "the record before it clearly supports a finding that Respondents are willfully and deliberately ignoring the directives of the Eleventh Circuit," the reality is that the Special Master presided over status hearings where legal counsel for the parties provided updates as to the status of providing financial documents, there is no record to support such a finding. (Doc 46, page 12).

18. Despite Mr. Slaughter's challenges in obtaining documents requested by the government, Mr. Slaughter offered on several occasions to execute a release of information in order for the government to serve third party subpoenas and obtain directly the requested financial records.
19. Even if Mr. Slaughter were able to work, to support his family and make a \$10,000 payment each and every month, it would take more than 220 months or more than 18 years to pay the government's fine in the instant case. Aside from the unrealistic ability to pay \$10,000 per month, the government is also pursuing an additional \$1,007,717 fine related to the administrative cases, and there is more than a million dollars in tax liabilities owed to the United States Internal Revenue Service totaling more than \$4,209,766. At this point, Mr. Slaughter would need to make \$10,000 per month payments for more than 35 years and well past his 80th birthday, which common sense would dictate is nearly impossible.
20. The freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause, and its threatened loss through legal proceedings demands due process protection. (U.S.C.A. Const. Amend. 14).
21. Without the court hearing from Mr. Slaughter or making a determination based in fact of Mr. Slaughter's ability to pay, a recommendation of incarceration is tantamount to debtor's prison.

22. Accurate decision making as to the, “ability to pay,” marks a dividing line between civil and criminal contempt,” and must be assured because an incorrect decision can result in a wrongful incarceration. Hicks v. Feiock, 485 U.S. 624, at 635, n. 7, 108 S. Ct. 1423, 99 L. Ed. 2d 721 (1988).
23. The undisputed facts confirm Mr. Slaughter’s alleged actions did not occur within the presence of the court. Rather, the court's determination of contempt was based on the government’s argument without any witness testimony and without the presentation of any evidence. Therefore, Mr. Slaughter was entitled to notice of the contempt charge, the right to counsel, *and the opportunity to be heard on the charge* [emphasis added]. Brandt v. Ozmint, 2009 WL 2905590 (D.S.C. 2009).
24. A court may not impose punishment, “in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order.” Hicks v. Feiock, 485 U.S. 624, 638, n. 9, 108 S. Ct. 1423, 99 L.Ed.2d 721.

Conclusion:

From the time Mr. Slaughter knew of his financial and legal obligations, he has complied to the best of his ability with the Eleventh Circuit Court of Appeal’s orders. Mr. Slaughter has not been afforded his constitutional right to due process and testify and provide evidence demonstrating his more than reasonable efforts to

comply with the Court's orders and otherwise purge himself of the alleged contempt.

Based upon the information and documents that were provided by Mr. Slaughter, any proposed purge provision has been complied with through his actions, except for beginning a payment schedule, which the government has not accepted, or suggested any counter proposal. The government cannot in good faith, allege Mr. Slaughter has the ability to pay more than more than \$4,209,766.

WHEREFORE, the Respondent, Travis Slaughter, respectfully prays this Court reject the Special Master's Report and allow for a hearing where Mr. Slaughter is able to be heard and respond to any unresolved allegations related to the Court's contempt order and to make a determination as to Mr. Slaughter's ability to pay the assessed fine(s) and the appropriateness of the fine amount.

Respectfully submitted,

/s/ Richard Komando

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
Objection was filed on December 22, 2021, with the Clerk of the Court using the
CM/ECF system, which will provide electronic service to the following:

Karen E. Mock, Esq.
Kristin R. Murphy, Esq.
Richard A. Latterell, Esq.
Arnold B. Corsmeier, Esq.

/s/ Richard Komando
Richard Komando