



SO ORDERED,

Neil P. Olack
Judge Neil P. Olack
United States Bankruptcy Judge
Date Signed: August 14, 2020

The Order of the Court is set forth below. The docket reflects the date entered.

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

IN RE:

WILLIAM BYRD MCHENRY, JR.,

Debtor.

CASE NO. 20-00268-NPO

Chapter 7

**ORDER ON MOTION FOR SANCTIONS
FOR CONTEMPT OF COURT ORDER**

Before the Court is a Motion for Sanctions for Contempt of Court Order filed by Alysson Mills, in her capacity as the receiver for the estates of Arthur Lamar Adams and Madison Timber Properties, LLC. [Dkt. No. 88].

The Receiver's motion came before the Court for hearing on August 11, 2020. The Court finds that the Receiver established a prima facie case that the Debtor violated the Court's May 8, 2020 order compelling him to produce documents pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and that the Debtor did not meet his burden of showing a present inability to comply with the order. The Court finds the Debtor in contempt of this Court and its orders.

The Debtor may purge his contempt by producing to the Receiver, within 14 days and without objection, complete responses to each of the Receiver's requests. The enclosed chart details the documents the Debtor must produce in response to each request.

If the Debtor fails to fully comply with this order, the Court will require the Debtor to pay to the Receiver \$2000 in attorney's fees and \$250 per day for each day until all documents requested have been produced.

Receiver's request ¹	McHenry's response ²	Deficiency currently known to the Receiver	Court's order
Tax returns from 2017, 2018, and 2019, together with all schedules and other information filed therewith. If the 2019 income tax return has not been filed or is incomplete, then all records that will be used in formulating the 2019 income tax return	McHenry did not specifically respond to this request.	McHenry failed to produce Schedule Cs for LLCs other than First South Investments, LLC that will be used in formulating his 2019 income tax return.	The Debtor must produce his 2019 tax returns to the Receiver once filed.
1. All cash in McHenry's possession and documentary evidence of cash at his disposal and on deposit at financial institutions, the name of the financial institutions and the address of the branch location usually banked at, and the account number for each account in which McHenry presently has any interest or has had any interest since April 19, 2018	"Previously provided"	<p>McHenry made certain financial disclosures to the Receiver on October 18, 2018 in the context of her lawsuit against him arising from his involvement in the Madison Timber Ponzi scheme. Those disclosures have not been supplemented.</p> <p>The Court's order expressly requires McHenry to produce documents that reflect his current financial status and his financial history from April 19, 2018 to present.</p>	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court's order on the Receiver's motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
2. Documentary evidence of any savings, money market, credit union, passbooks, or other financial institution accounts, used by McHenry, or in which McHenry has any interest, together with the complete statements of	"Previously provided"	<p>McHenry failed to produce records for the following accounts for the listed dates:</p> <ol style="list-style-type: none"> 1. Magnolia Federal Credit Union (#1887) [Bill McHenry]: April 19, 2018 to December 31, 2018 2. First Commercial Bank (#7011) [Bill McHenry]: December 17, 2018 to December 16, 2019 	Within 14 days, the Debtor must produce all responsive documents through the date of the Court's order on the Receiver's motion to compel.

¹ The enumerated paragraphs herein correspond with the paragraph numbers in the Court's May 8, 2020 Order. Dkt. No. 83.

² McHenry's response per the June 23, 2020 letter from James McGee to the Receiver's counsel, attached to the Receiver's motion as Exhibit 1.

those accounts since April 19, 2018		<ol style="list-style-type: none"> 3. First Bank and Trust (#1302) [Bill McHenry]: January 1, 2020 to January 30, 2020 4. First Commercial Bank (#3214) [First South Investments, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 5. First Commercial Bank (#3529) [Wildlife Property Management, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 6. First Commercial Bank (#0441) [Wings West, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 7. First Commercial Bank (#8767) [Daybreak Planting Co, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 8. First Commercial Bank (#2694) [Silverthorn Capital Management, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 9. First Commercial Bank (#2744) [Silverthorn Holdings, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 10. First Commercial Bank (#2736) [Silverthorn, LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 11. First Bank and Trust (#2453) [Timbercorp South LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 12. First Bank and Trust (#2440) [First South Investments LLC]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 13. Southern Ag Credit (#4610) [Wildlife Property Management LOAN]: April 19, 2018 to December 31, 2018 and January 1, 2020 to present 	
3. Documentary evidence of any IRA, Keogh, SEP, or other tax-deferred account used by McHenry, or in which McHenry has any interest, together with the complete statements of those accounts since April 19, 2018	"Previously provided"	McHenry's bankruptcy schedules list a Merrill Lynch IRA account. McHenry has produced to the Receiver no information about this account.	Within 14 days, the Debtor must amend his bankruptcy schedules to accurately reflect the current status of his retirement or pension accounts.

			The Debtor must also produce to the Receiver evidence of the closure of any retirement or pension account that he has listed on his bankruptcy schedules.
4. The checkbook for each checking account used by McHenry, or in which McHenry has any interest, together with the complete monthly statements, cancelled checks, deposit and debit slips since April 19, 2018 for each account	"Previously provided"	Same deficiencies as for Request Nos. 1 and 2.	Within 14 days, the Debtor must produce all responsive documents through the date of the Court's order on the Receiver's motion to compel.
6. All pay stubs and any and all income received by McHenry since April 19, 2018, including, but not limited to, health plans, employment, rents, royalties, and proceeds from sales of assets	"Not available"	McHenry does not explain or provide information as to why documents regarding his income are "not available."	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court's order on the Receiver's motion to compel.</p> <p>The Debtor must produce to the Receiver all documents evidencing the source of deposits into his companies, including First South Investments, LLC.</p> <p>The Debtor must produce evidence of any transaction in which he bought or sold property or equipment, including evidence of any income received from the transactions.</p>

<p>7. Copies of all titles to real estate, automobiles, trailers, and other registered movables owned by McHenry individually, as marital community, or business ventures, as of the date this motion is served on him</p>	<p>“Previously provided”</p>	<p>Same deficiencies as for Request No. 1.</p> <p>McHenry does not disclose information about equipment owned by First South Investments, LLC, as referenced in the company’s bank statements.</p> <p>McHenry does not disclose information about three trailers for which he apparently has insurance policies: 2012 16’ utility trailer; 2010 16’ utility trailer; and 2014 18’ cargo trailer.</p>	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court’s order on the Receiver’s motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
<p>10. Copies of all mortgages encumbering the real estate, furniture, electronic equipment, or any other movable property owned or possessed by McHenry individually, as marital community, or business ventures, including all documents setting forth the monthly amount due on said mortgages and the current balance</p>	<p>“See Deed of Trust previously provided.”</p>	<p>Same deficiencies as for Request No. 1.</p> <p>McHenry does not disclose information about equipment owned or possessed by First South Investments, LLC, as referenced in the company’s bank statements.</p> <p>McHenry does not disclose information about three trailers that he apparently owns or possesses, for which he purchases insurance coverage: 2012 16’ utility trailer; 2010 16’ utility trailer; and 2014 18’ cargo trailer.</p>	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court’s order on the Receiver’s motion to compel.</p> <p>Specifically, the Debtor must produce any and all responsive documents relating to 124 Trace Timber Lane, Canton, Mississippi.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it</p>

			and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.
11. All of McHenry's utility and telephone bills, credit card statements, rent receipts, and insurance premium notices since April 19, 2018	"Not available"	<p>It is simply impossible that McHenry's utility and telephone bills are "not available."</p> <p>McHenry fails to identify and produce credit card statements for the numerous credit cards that he lists on his bankruptcy schedules or for which he makes ACH payments through First South Investment, LLC's First Commercial Bank account, including:</p> <ul style="list-style-type: none"> • American Express • Chase Credit Card • Bank of America • Visa • Citi Card • First Bankcard • Wells Fargo • Merrick Bank • Discover • BP Mastercard • Fidelity <p>First South Investments, LLC's bank statements indicate monthly payments of \$1,700 to "742 Magnolia." Upon information and belief, 742 Magnolia is rented office space. McHenry did not disclose any information about 742 Magnolia.</p> <p>McHenry did not disclose any information regarding insurance premiums or policies. His bankruptcy schedules list four policies: New York Life Term Policy; Mutual of Omaha Term Policy; Physician Mutual Term Policy; and Securian Accidental Death Policy. First South Investments, LLC's bank statements, however, show that McHenry makes monthly premium payments for many other insurance policies, including:</p> <ul style="list-style-type: none"> • Globe Life Insurance 	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court's order on the Receiver's motion to compel.</p> <p>To the extent that any credit card account is cancelled, the Debtor must produce evidence showing the account's inactivity. If any account is active, the Debtor must provide its monthly statements.</p> <p>The Debtor must produce documents evidencing the lease of 742 Magnolia, including rent paid.</p> <p>The Debtor must produce all information regarding his insurance premiums and policies.</p>

		<ul style="list-style-type: none"> • Safeco Insurance (multiple payments per month) • Physicians Mutual Insurance (multiple payments per month) • American National Insurance • United HealthOne Insurance • New York Life AARP Insurance • NRA Life Insurance • Fireman’s Fund • Aetna Life Insurance • Allianz 	
13. All stock certificates (and/or other evidences of stock ownership) owned or possessed by, or in the name of McHenry in any corporation	“Previously provided”	Same deficiencies as for Request No. 1.	Within 14 days, the Debtor must produce all responsive documents through the date of the Court’s order on the Receiver’s motion to compel.
14. A list of all assets owned by McHenry individually, as marital community, or business ventures	“Previously provided”	<p>Same deficiencies as for Request No. 1 as it relates to McHenry’s personal assets.</p> <p>McHenry has never produced to the Receiver a list of assets owned by any of his business ventures, including the assets of any one of McHenry’s (at least) ten companies. The companies in which McHenry has an interest, as currently known to the Receiver, are the following:</p> <ul style="list-style-type: none"> • First South Investments, LLC • Wildlife Property Management, LLC • Wings West, LLC • Daybreak Planting Co., LLC • Silverthorn Capital Management, LLC • Silverthorn Holdings, LLC • Silverthorn, LLC • Timbercorp South, LLC 	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court’s order on the Receiver’s motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
15. Documentary evidence of all assets owned by corporations, partnerships,	The Debtor initially responded	It is seemingly impossible that “none” of the (at least) ten companies in which McHenry has any interest have any assets.	Within 14 days, the Debtor must produce all responsive

<p>or businesses in which McHenry has any interest</p>	<p>“none,” but amended his response to “previously provided”</p>		<p>documents through the date of the Court’s order on the Receiver’s motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
<p>18. All deeds, titles, leases, liens, contracts, and records pertaining to any property, real or movable, in which McHenry has any interest, or held by another for the benefit or use of McHenry, together with the documents evidencing McHenry’s ownership interest</p>	<p>The Debtor initially responded “none,” but amended his response to “previously provided”</p>	<p>The Receiver is aware of at least one, and possibly two, tracts of land that McHenry leases. McHenry did not disclose these leases to the Receiver.</p> <p>McHenry claims as exempt 124 Trace Timber Lane, Canton, MS 39046, in his bankruptcy schedules, but has not disclosed to the Receiver any information about this property.</p>	<p>Within 14 days, the Debtor must produce all responsive documents through the date of the Court’s order on the Receiver’s motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
<p>19. All records identifying all other assets owned by McHenry individually, as</p>	<p>“Previously provided”</p>	<p>Same deficiencies as for Request No. 1 as it relates to McHenry’s personal assets.</p>	<p>Within 14 days, the Debtor must produce all responsive</p>

<p>marital community, or business ventures</p>		<p>McHenry has never produced to the Receiver records identifying all other assets owned by any of his business ventures, including the assets of any one of McHenry's (at least) ten companies.</p>	<p>documents through the date of the Court's order on the Receiver's motion to compel.</p> <p>To the extent that the Debtor maintains that he has previously provided information to the Receiver, he must specifically identify it and explain how the information requested herein is identical to the information produced to the Receiver in October 2018.</p>
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##END OF ORDER##

Approved:

/s/ Kristen Amond

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