

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA)	
)	
Petitioner,)	2016 CA 000162 B
)	Judge John M. Mott
v.)	
)	Next Court Date: N/A
1309 ALABAMA AVENUE, LLC, et al.)	Event: N/A
)	
Respondents/Defendants.)	
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**THE DISTRICT OF COLUMBIA’S OPPOSED MOTION FOR AN ORDER
DIRECTING RESPONDENT CITYPARTNERS 5914 LLC TO SHOW CAUSE WHY IT
SHOULD NOT BE HELD IN CONTEMPT**

The District of Columbia (the “District”), through the Office of Attorney General for the District of Columbia, respectfully requests that the Court order Respondent CityPartners 5914 LLC (“CityPartners 5914”) to appear and show cause why it should not be held in contempt for violating the Court’s July 13, 2018 Order Funding Implementation of the Receiver’s Plan (“Funding Order”). The Funding Order directed CityPartners 5914 to provide the Receiver \$895,159.60 to fund the Receiver’s Initial Assessment and Plan (the “Receiver’s Plan”). That payment was due on or before August 13, 2018. In an email sent on August 13, 2018 at 3:39PM, CityPartners 5914’s parent company informed the Receiver that CityPartners 5914 would not be complying with the Funding Order. Given CityPartners 5914’s failure to comply with the Funding Order, the District requests that the Court order CityPartners 5914 to appear and show cause why it is not in contempt, as well as produce financial records supporting any inability to pay defense it intends to advance.

HEARING REQUESTED

Dated: August 15, 2018

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Attorney General for the District of Columbia

ROBYN R. BENDER
Deputy Attorney General
Public Advocacy Division

/s/ Jimmy R. Rock

JIMMY R. ROCK (Bar #493521)
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/s/ Jane H. Lewis

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/s/ Argatonia D. Weatherington

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Attorneys for the District of Columbia

RULE 12-I STATEMENT

The undersigned certifies that prior to the filing of the instant motion, the District contacted counsel for Respondent CityPartners 5914 LLC, by electronic mail on August 14, 2018, to seek consent to the relief in the instant Motion, and Respondent CityPartners 5914 advised that they do not consent.

/s/ Argatonia D. Weatherington
Argatonia D. Weatherington
Attorney for the District of Columbia

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 15, 2018 I caused the foregoing *District of Columbia's Opposed Motion for an Order Directing CityPartners 5914 LLC to Show Cause Why They Should Not Be Held in Contempt* to be served on all parties on record via CaseFileExpress.

/s/ Argatonia D. Weatherington
Argatonia D. Weatherington
Attorney for the District of Columbia

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**MEMORANDUM IN SUPPORT OF THE DISTRICT OF COLUMBIA’S OPPOSED
MOTION FOR AN ORDER DIRECTING RESPONDENT CITYPARTNERS 5914 LLC
TO SHOW CAUSE WHY IT SHOULD NOT BE HELD IN CONTEMPT**

INTRODUCTION

In its July 13, 2018 Order (“Funding Order”), the Court directed Respondent CityPartners 5914 LLC (“CityPartners 5914”) to pay the Receiver \$895,159.60 for the purpose of rehabilitating the Congress Heights Apartments (the “Property” or “Congress Heights”). That payment was due by August 13, 2018, and late that day, CityPartners 5914 informed the Receiver the company would, at most, provide \$52,000 – only enough to cover the costs of relocation of the tenants from the Property (a proposal that was already rejected by the Court in its August 6, 2018 Order denying CityPartners 5914’s Motion to Amend the funding Order). CityPartners 5914 was obligated to exhaust all feasible means to comply with the Funding Order. *See D.D. v. MT*, 550 A.2d 37, 44 (D.C. 1988). Having failed to comply with that Order, CityPartners 5914 should be ordered to appear and show cause why it is not in contempt, and should be ordered to produce a full disclosure of its and its parent company’s and principal’s assets in advance of that hearing.

FACTUAL BACKGROUND

1. Prior Proceedings

In January 2016, the District filed the instant litigation under the Tenant Receivership Act due to the unlawful living conditions at the Congress Heights Apartments. After a show cause hearing, the Court permitted the parties to enter a Joint Abatement Plan, which would serve as a guide for starting the much-needed repairs at the Property. Despite entry of the Joint Abatement Plan, the Sanford Respondents failed to comply with the plan, forcing the District to move for appointment of a receiver. The Court granted the District's request in September 2017 and entered an order appointing David Gilmore as receiver over the Congress Heights properties. *See* Court's Sept. 26, 2017 Order to Appoint Receiver (the "Receivership Order").

After the Receiver's appointment, at the request of the Sanford Respondents, the Court postponed implementation of the Receiver's Initial Assessment and Plan ("Receiver's Plan") to give the Sanford Respondents a 60-day window to exclusively negotiate a sale of the Property to the tenants. The 60-day exclusivity period was memorialized in the November 9, 2017 Order. *See* Court's Nov. 9, 2017 Order (the "Exclusive Negotiation Order"). Prior to the close of the 60-day window, the Sanford Respondents began to negotiate a sale and transfer of the Property with CityPartners 5914, violating the Exclusive Negotiation Order.

Once the District became aware that the Sanford Respondents and CityPartners 5914 violated the Receivership Order and the Exclusive Negotiation Order, it filed two motions to show cause and moved to amend its complaint to add CityPartners 5914 as a party. The first motion to show cause was filed against the Sanford Respondents and Aubrey Carter Nowell. The second against CityPartners 5914, CityPartners LLC (the parent company of CityPartners 5914), Geoffrey Griffis, and Gregory Faron. All three of the District's motions were granted.

2. Violation of the Funding Order

In April 2018, the District filed the Motion for Respondents to Fund Implementation of Receiver's Plan ("Motion to Fund"). On June 26, 2018, the Court held an evidentiary hearing on the District's Motion to Fund. CityPartners 5914 was given an opportunity to object to specific line items in the Receiver's Plan. At the close of evidence, the Court concluded that there was little difference in the Receiver's estimates for repairs and CityPartners 5914's. Based on the evidence in the record, the testimony from the experts, and the objections presented by CityPartners, the Court entered a Funding Order directing CityPartners 5914 to remit \$895,159.60 for implementation of the Receiver's Plan within 30 days and found that CityPartners 5914 was fully aware of the receivership when it acquired title to Congress Heights. *See* Funding Order at 11. In addition, the Court held the District's two show cause motions in abeyance with an understanding that CityPartners could cure the contempt by rehabilitating the Property or negotiating a sale to the tenants – neither of which happened.¹ *Id.* On August 6, 2018, the Court also denied CityPartners 5914's Motion to Amend the Funding Order.

Late in the afternoon of August 13, 2018, CityPartners 5914's notified the Receiver it would be making, at most, a payment of \$52,000 that day, thereby violating the Court's Funding Order that at least \$895,159.60 be paid to the Receiver that day. *See* Ex. 1 (Gregory Faron 8/13/18 Email).

¹ The District also requests that the Court rule on the District's two other pending motions to show cause, as they are now ripe and a hearing on those motions already occurred on June 26, 2018.

ARGUMENT

CityPartners 5914 should appear and show cause why it is not in civil contempt of the Court's Funding Order.

CityPartners 5914 should appear and show cause why it is not in civil contempt of the Court's Funding Order. "One who is subject to a court order has the obligation to obey it honestly and fairly, and to take all necessary steps to render it effective." *D.D. v. MT*, 550 A.2d 37, 44 (D.C. 1988). "[T]he general rule with respect to civil contempt is that where noncompliance with a judicial order has been factually established, the burden of establishing justification for noncompliance shifts to the alleged contemnor." *Bolden v. Bolden*, 376 A.2d 430, 433 (D.C. 1977). When a person is subject to an order of the Court, and fails to comply with that order, civil contempt is available as a sanction to enforce compliance and to compensate the aggrieved party for any loss or damage sustained as a result of the noncompliance. *D.D. v. MT*, 550 A.2d at 43.

Here, the factual record is clear that CityPartners 5914 failed to comply with the Funding Order. Gregory Faron, an agent of CityPartners 5914's parent company, CityPartners LLC, emailed the Receiver and his counsel late in the day on August 13, 2018 and stated that CityPartners 5914 did not intend to comply with the Funding Order. In lieu of actual compliance, CityPartners 5914 offered to fund only the relocation of the tenants from the Property, *See* Ex. 1 (Gregory Faron 8/13/18 Email), an idea that has previously been rejected by the Court. *See* Court's August 6, 2018 Order (denying CityPartners 5914 LLC's Motion to Amend the July 13, 2018 Order.)

CityPartners 5914 should be directed to appear and show cause why it is not in contempt of the Funding Order. Moreover, to the extent CityPartners 5914 intends to advance any inability to pay defense to civil contempt, the District requests that the Court require the company to

produce its, its parent company's, and principal Geoff Griffis' financial records and bank statements since November 2017 at least five days in advance of any show cause hearing.

CONCLUSION

For the foregoing reasons, the District respectfully requests that the Court enter an order directing CityPartners 5914 to show cause why it should not be held in contempt for violating the Funding Order and set a hearing date as well as ordering an appropriate pre-hearing production of financial records.

Dated: August 15, 2018

KARL A. RACINE
Attorney General for the District of Columbia

ROBYN R. BENDER
Deputy Attorney General
Public Advocacy Division

/s/ Jimmy R. Rock

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ORDER

Upon consideration of the District of Columbia’s Opposed Motion for an Order Directing CityPartners 5914 LLC to Show Cause Why They Should Not Be Held in Contempt, any Opposition thereto, and the record in this case, on this day of _____, 2018, it is hereby:

ORDERED that the District’s Motion is GRANTED; and it is

FURTHER ORDERED that Defendant CityPartners 5914, LLC, shall appear before the Court on _____, 2018 at _____.M. and show cause why they should not be held in contempt for violating the terms of the Court’s July 13, 2018 Order requiring CityPartners 5914, LLC to fund the receivership in the amount of \$895,159.60; and it is

FURTHER ORDERED that, at least five (5) business days before the Show Cause hearing, Defendant CityPartners 5914, LLC, shall produce to the District all financial statements and bank accounts for itself, its parent company and its principal Geoff Griffis since November 1, 2017.

SO ORDERED this ____ of _____, 2018.

The Honorable John M. Mott
Associate Judge

COPIES TO:
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