

In re:

CUMBERLAND INVESTMENT CORPORATION
Debtor

: BK No. 89-11051
Chapter 7

**ORDERS: (1) GRANTING MOTION TO STRIKE AND
(2) IMPOSING ADDITIONAL SANCTION**

Before the Court is the Motion of Harold Chorney "to clarify the class action award from the lawsuit against Christy's Public Auction and require the Chapter 7 Trustee, Jason Monzack, Esq., to provide a complete and detailed accounting of estate assets." Chorney has also served the Trustee with a "Second Request for Admissions." In response, the Trustee has filed two motions to strike - one seeking to strike the motion (Doc. #794), and the other seeking to strike the request for admissions (Doc. #870). Because Chorney lacks standing to bring the instant motions, and because much of the relief he requests has been previously denied here and on appeal all the way to the United States Supreme Court, the Trustee's Motions to Strike are GRANTED and Chorney's motion and request for admissions are stricken.

DISCUSSION

Chorney's hyperactivity and ludicrous conduct throughout this case is marked by his incessant acts of bad faith and abuse

of the system from the inception of this bankruptcy in 1989. Very early on, it was determined that "Chorney has deliberately and continuously acted in bad faith to obstruct and to hinder the efficient administration of the estate, which action has been very damaging, expense-wise, to the estate and its creditors." *In re Cumberland Investment Corp.*, BK No. 89-11051, slip op. at 1-2 (Bankr. D.R.I. July 3, 1991). As a result, Chorney was prohibited from intervening or "otherwise participat[ing] in proceedings relating to sales or other disposition of estate assets." *Id.* In addition, in 1992 a civil contempt sanction was imposed in the amount in of \$200,000 against Chorney on account of his bad faith and abuse of the bankruptcy process. *In re Cumberland Investment Corp.*, BK No. 89-11051, slip op. at 1-2 (Bankr. D.R.I. July 2, 1992), *aff'd*, 7 F.3d 218 (1st Cir. 1993), *cert denied*, 510 U.S. 1200 (1994). This sanction was calculated to reimburse the estate for just a part of the unnecessary expense occasioned by Chorney's aberrant behavior. *Id.* at 4. Obviously undeterred by this sanction, Chorney continues, some twelve years later, to file frivolous

pleadings which add expense and delay in the closing of this 1989 case.

By filing the instant motion and requests for admissions, Chorney has directly violated the 1991 injunction. Additionally, in January 2002, Chorney filed a similar request seeking an accounting of assets, which was denied on March 14, 2002, based on lack of standing and the 1991 injunction order. See Doc. #738. That decision was sustained on appeal. See *In re Cumberland Inv. Corp.*, 2003 WL 214357 (1st Cir.), cert. denied, 123 S. Ct. 579 (2003). Finally, in an effort to leave no stone unturned, I asked the United States Trustee to review the Trustee's Accounting to date to determine whether any of Chorney's allegations have merit. The United States Trustee responded in late August 2004 stating that she was satisfied with the Trustee's Accounting. See Doc. #899.

Accordingly, because these issues have been long ago decided against Mr. Chorney, because he lacks standing, and because he is enjoined from participating in this case regarding the disposition of assets, the Trustee's request to strike the instant motion and request for admissions are GRANTED.

Also, because the instant filings are frivolous and are hindering the Trustee in performing his duty to conclude this case, it is further ordered that, effective immediately, the Clerk of Court shall decline to accept any filings from Harold Chorney, unless such filing has first been presented to Chambers and is specifically authorized by the Court for filing.¹ See 11 U.S.C. § 105(a); *see also, Mayfield v. Collins*, 918 F.2d 560 (5th Cir. 1990).

Dated at Providence, Rhode Island, this 3rd day of November, 2004.



Arthur N. Votolato
U.S. Bankruptcy Judge

Entered on docket: 11/3/04

¹ I considered imposing additional monetary sanctions, however, the \$200,000 contempt sanction remains unpaid and appears to have little deterrent effect on Chorney.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :
CUMBERLAND INVESTMENT : BK No. 89-11051
CORPORATION : Chapter 11
Debtor :

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ORDER

Heard on September 17, 1991 on the Court's Order to Show Cause why Harold Chorney and Gerald Aubin¹ should not be adjudged in contempt and sanctioned for their continuous, deliberate, and unjustified interference with the orderly progress of this bankruptcy case.

In prior proceedings we have found that Chorney has, inter alia, filed frivolous pleadings, willfully interfered with and obstructed the administration of the case, and generally and in bad faith abused the bankruptcy process, causing the estate and its creditors significant economic harm. See In re Cumberland Investment Corp., BK No. 89-11051, slip op. at 1-2 (Bankr. D.R.I. July 3, 1991). Our July 3, 1991 order, which precipitated the instant show cause hearing, clearly expressed the Court's exasperation with Mr. Chorney's conduct.

¹ Because the evidence presented at the September 17, 1991 hearing does not support a finding of contempt as to Gerald Aubin, we do not enter an order against him at this time. This is not to say that Mr. Aubin's pre and post-petition conduct (in concert with Chorney) does not deserve sanctions. Our ruling here only reflects the lack of such evidence at the September 17, 1991 hearing.

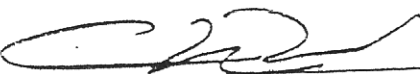
1. That Chorney's Motion is DENIED;

2. That, henceforth, Chorney and Aubin will no longer be permitted to intervene or otherwise participate in proceedings relating to sales or other disposition of estate assets, and are not entitled to any notice other than that received by general creditors;

3. Any orders previously entered by this Court which are contrary to or in conflict with the letter and spirit of this order, including that certain bench ruling of May 7, 1991 granting, in part, Chorney's Motion to Compel discovery relating to Weingarman's fee application,¹ are VACATED;

4. Because of their willful interference with the orderly and economic administration of this estate, and for their unjustified waste of the time of this Court, and of numerous other parties, Chorney and Aubin are ORDERED TO SHOW CAUSE, on July 25, 1991 at 2:00 PM, why they should not be adjudged in contempt, and/or ordered to pay sanctions.

Dated at Providence, Rhode Island, this 3rd day of July, 1991.


Arthur N. Votolato, Jr.
U.S. Bankruptcy Judge

1. The Court will rule upon the Examiner's pending fee application without further input from Chorney, whose standing is as an alleged general creditor only, and whose interests as such are adequately represented by the Trustee.