

US Bankruptcy Court Kevin Kulek Case No. 16-21030 1/20/2017

00:00

Clerk: Be seated please. Kevin Kulek. Case No. 16-21030.

Judge Opperman: Good morning, sir. Are you Kevin Kulek?

Kevin Kulek: Yes I am.

Opperman: Good morning sir. And who is on the phone please?

Keith Nathanson: Good morning, your honor. Keith Nathanson, special litigation counsel. (Inaudible) On the phone.

Opperman: Good morning, Mr. Nathanson. First off, I'd like to thank the US Marshall service for again doing an outstanding job of bringing someone into the court. It doesn't happen often, but we appreciate all your efforts that have occurred. Mr. Kulek, do you know why you're here today?

Kulek: I understand you're seeking explanation from me.

Opperman: That's a start. so, do you know why you're here today?

Kulek: Uh, not specifically, no.

Opperman: Okay. Did you know that you were supposed to appear at an office to undergo questioning by Mr. Nathanson? Did you know that?

Kulek: Yes, I did.

Opperman: Did you know that you're supposed to bring a number of documents with you for that meeting?

Kulek: Yes, I did.

Opperman: Did you do any of those two things?

Kulek: Um, I did not go to the meeting.

Opperman: Did you bring all the documents he requested?

Kulek: Uh, most of... the majority of the documents were sent to Mr. Nathanson in email form.

Opperman: I see. And you know you're supposed to do that twice, is that correct?

Kulek: Yes.

Opperman: And you didn't appear either time to be deposed, did you?

Kulek: No, your honor, I did not.

Opperman: Was there a reason why you didn't do that, sir?

Kulek: Uh, yes.

Opperman: What was the reason?

Kulek: The first time was because it was the first day of a new job.

Opperman: Okay.

Kulek: Um, and the second time I felt very threatened by Mr. Nathanson.

Opperman: Why did you feel threatened by Mr. Nathanson?

Kulek: In a talk with my attorney, he had specifically told him to tell quote his client not to bring his firearm, and I had never once mentioned a firearm. Ever.

Opperman: Do you have a firearm?

Kulek: I do.

Opperman: What kind of firearm do you have?

Kulek: I have a Ruger P89 special.

Opperman: Is that all you have?

Kulek: Yes.

Opperman: Why would that issue come up at all?

Kulek: I have no idea. That's why I was scared.

Opperman: I see. Was your attorney going to be with you at this deposition, sir?

Kulek: I believe so.

Opperman: Okay. So why would you fear if your attorney was there?

Kulek: Because there's an internet hysteria and slander campaign against me. I've had multiple threats.

Opperman: I see. So, do you carry your firearm with you at all times, sir?

Kulek: I never do.

Opperman: I see.

02:30

Kulek: I don't have the, I don't have a permit to carry.

Opperman: So, you keep it at home?

Kulek: I do.

Opperman: Sir, let me tell you how I see this, for a second or two, from my perspective.

Kulek: Sure.

Opperman: And that is that you filed this case on June 3, 2016, asking for this court to take your case and impose an injunction, which of course is done, and then give you a discharge if everything works okay. You understand that, sir?

Kulek: I do.

Opperman: So you came here voluntarily, it wasn't my idea to have you file this petition. You understand that?

Kulek: I understand that.

Opperman: And then, sir, there's a number of documents that have been filed in this case. This is very typical. But then I see a stipulation signed by your attorney, saying that you would be at a 2004 examination in an order that I signed. And that order required you to produce a number of documents about... Just give me a second here, because it's a lot.

Kulek: Mmhmm.

Opperman: There are thirty-seven different categories. That's a lot of documents, sir.

Kulek: It most certainly is.

Opperman: Um, and then you didn't appear. So then Mr. Nathanson asked for a motion to make you appear. I signed that order. And then you didn't appear again. And then I signed an order directing the Marshals to apprehend you and bring you here, which is why you're here today. Do you understand all that, sir?

Kulek: I do.

Opperman: Is there a reason why you didn't have your attorney file some paper with this court saying you feared for your safety, or that you wanted to have your deposition taken at a different place, sir?

Kulek: All I said was I feared for my safety. I would love to have the deposition taken at another location. I don't want to give the example, or the appearance, that I'm trying to be uncooperative.

Opperman: Well it's very difficult to see that right now, sir.

Kulek: I understand that. I'm saying this to say whatever you want me to do, I'm more than happy to be cooperative. I just want this to be over as much as anyone else.

Opperman: Now all the papers that you said that you sent, you sent them by email to your attorney first, is that what happened?

Kulek: Yes.

Opperman: And as far as you know, the attorney forwarded those papers to Mr. Nathanson, is that correct?

Kulek: As far as I know, yes.

Opperman: Do you have any papers at your home? Regarding these items that were requested?

Kulek: Uh, nothing that he doesn't have.

5:00

Opperman: I see. So whatever you think follows within these descriptions, you've already give to mister... your attorney who then has given them to Mr. Nathanson, is that correct?

Kulek: I believe so.

Opperman: Sir, I'm just going to ask you to stay there for a minute or two. Mr. Nathanson, you heard. Any thoughts or anything you want to share with the court at this time?

Nathanson: I would, your honor. First of all, I just would like the court to know that Mr. Kulek, although not disclosed as an asset in his bankruptcy petition, testified at his second 341 meeting of creditors that he owned a Ruger firearm. And my comment to his counsel when we scheduled, it was actually for the second 2004B which was set for December 16 at nine a.m. for which Mr. Kulek did not appear. My advice to his counsel was to advise Mr. Kulek not to bring his firearm to my office. That was the only comment I made. Obviously I'm concerned with a recalcitrant debtor, who really in the entire history of this case has not complied with anything, and then all of a sudden discloses that he has a firearm. That's concerning. It's concerning for me, my office staff, my landlord, which is actually another law firm in this building, and I just wanted to be clear that a firearm would not be welcome in this building. There were never any threats against Mr. Kulek. There's no one in this office who has any pecuniary interest, who never attempted to purchase a pinball machine from Mr. Kulek, or gave him any money, or anything else. So as far as any internet hysteria or anybody else, I'm unaware anyone, even in the vicinity of my office, who would have any notice that the 341, or the 2004B exam rather, were taking place. Also, I'll just indicate to the court that the only documents that I received from Mr. Kulek's counsel were just some bank printouts and, just so the court's aware, Mr. Kulek received, at least as far as the trustee believes, north of about a million dollars from investors for a pinball machine that he was never authorized to build. In Mr. Kulek's petition, he listed about \$500,000. He never explained to the trustee, or provided any documentation to show dissipation of that money. Obviously the trustee is very interested to know where the million-two went, number one. The trustee is very concerned, because number one, about twenty days before filing, Mr. Kulek, although claiming he is insolvent, managed to purchase a thirty-two-foot RV for his mother. Even as late as this December purchased a series of laptops for his five children, but comes before this court and claims to be insolvent. Most of the documents in that list have not been provided. Mr. Kulek has not provided any business records, there have been payments that have been made, we've asked for copies of checks from his business account, because there have been transfers to his friends, and relatives, and people who he claims are his employees, but has yet to produce any employment records. No W-2s, no 1099s, no information whatsoever, and the trustee essentially has his hand tied because we can't do anything without debtor compliance. His counsel stipulated to the original 2004B on November 2, which Mr. Kulek simply didn't appear, although his counsel appeared. The court entered the order compelling Mr. Kulek to appear on December 16. Mr. Kulek did not appear, although his counsel appeared. Other than the printout from the bank accounts, those are the only records we've received. Mr. Kulek additionally transferred money to his wife to purchase a house solely in her name, which were assets to render himself insolvent as well, and we have an ongoing history now, judge. Months of noncompliance by this debtor. He hasn't paid any of the costs or sanctions pursuant to the court's order of December 12. Frankly he has done nothing.

Opperman: And you've talked to Mr. Hodgson about the documents that he has?

10:00

Nathanson: He's indicated he sent to me everything Mr. Kulek has provided, which is essentially nothing, and essentially it's just a jumbled set of printouts from bank statements, which don't explain anything, don't provide the trustee with any information about Mr. Kulek's business operation. At my last calculation, I've accounted for approximately \$200,000 of the \$1.2 million, and we are, as I've indicated to the court, the trustee's at a standstill. I can't do an investigation, the trustee can't do an investigation, we can't properly, the trustee can't properly administer this case because Mr. Kulek, with his recalcitrant and flippant attitude, just refuses to comply.

Opperman: About how many pages do you think you received, Mr. Nathanson? And I want you to give me an estimate, not an exact number, but are we talking about fifty? 100? 2000? What do you think it is?

Nathanson: I think I was provided in the neighborhood of about fifty pages. Probably a little bit less. I'm actually attempting to find it right here. Let's see. Unfortunately Mr. Hodgson's office sends from several different email addresses, so not easy to locate his documents. But it was in the neighborhood of about fifty pages, but all it was was obviously Mr. Kulek went online to his credit union account and just printed out the statements and sent the statements over, which is a far cry from what the trustee has asked for, and what the trustee needs.

Opperman: Well, I suppose it would be a start on number one, which is all bank accounts for Kevin Kulek and or (SKIT-B) pinball.

Nathanson: Well, partially, your honor, because there is also a joint account that he had with his wife where there were numerous transfers. None of the records for that account were provided to the trustee.

Opperman: Fair enough. Did you get any checks from credit union regarding the (SKIT-B) pinball account?

Nathanson: None. None, your honor.

Opperman: Any tax returns from Mr. Kulek or SKIT-B pinball for 2011-2015?

12:30

Nathanson: I believe the debtor provided a few of the returns to the trustee. We certainly don't have his complete returns, that are indicated at his second 341 that he was filing the returns and would provide them to us, so we have a partial of his tax returns.

Opperman: I see.

Kulek: Your honor, may I speak?

Opperman: I'm not done with Mr. Nathanson yet. Mr. Nathanson, what do you want me to do?

Nathanson: Well, your honor, I understand the court's quandary, that confining Mr. Kulek to prison doesn't give the trustee the records.

Opperman: I have no problem with that, Mr. Nathanson. I have no problem with that.

Nathanson: I mean, I would ask, based on the debtor's just continued noncompliance, from day one, that the court order him confined for at least some period of time, whatever the court feels reasonable. I would suggest not less than fourteen days, and probably thirty days would be more appropriate, and then upon release, the debtor be held to a very, very short leash on providing every one of the documents requested by the trustee, paying all the costs and sanctions as ordered by the court in the December 12 order, and if not, then the court immediately issue another order that Mr. Kulek be apprehended and perhaps the next time around he be held and confined until such time as he fully complies.

Opperman: Thank you, Mr. Nathanson. I will come back to you in a couple minutes. Mr. Kulek, I did hold you up for a minute or two because I wanted to hear Mr. Nathanson speak. So go ahead, sir.

Kulek: Yes, thank you.

Opperman: You're welcome.

Kulek: The numerous claims that Mr. Nathanson is making are false, at best, and lies, at worst. I don't know where this \$1.2 million number is coming from. It is completely made up. He has my entire banking records from my business account from the day it was opened until the day it closed. There's not that much. As far as cooperation and the documents provided, the majority of the documents he is asking for in this case are also documents he asked for in the previous case, in which he was the opposing counsel to civil lawsuits against me and my family.

Opperman: Mmhmm.

15:00

Kulek: He has the majority of those things, if not from this time he asked, then from the last two times they were provided. I'm absolutely not trying to be uncooperative. I want this to be over with. I would like to, I'd like to do whatever you would ask of me.

Opperman: DO you realize that I can, as Mr. Nathanson suggested, have you kept in custody of the US Marshals for a period of time? Do you understand that, sir?

Kulek: I do now, sir, yes.

Opperman: Good. You just figured that out in the last couple hours, Mr. Kulek?

Kulek: I just figured out right now.

Opperman: Okay. Tell me about your personal situation if I put you in the custody of the US Marshals for a period of time. Would that cause a hardship upon your family, if you have one?

Kulek: Most definitely.

Opperman: How so?

Kulek: I homeschool my daughter, and I watch my children while my wife is working.

Opperman: Okay. So who is watching the children right now?

Kulek: I have a friend over that's watching them.

Opperman: How many children do you have, sir?

Kulek: Three that live with me.

Opperman: And their ages?

Kulek: Ten, eight, and six.

Opperman: I'm not asking their names, I just want to know the general ages.

Kulek: I see.

Opperman: And your wife is employed outside the house?

Kulek: yes, she's a, she has a photography studio in Sanford, Michigan.

Opperman: Fair enough. Well how do you respond to Mr. Nathanson saying he's got about fifty pages when frankly sir, I look at all these papers that should've been supplied, and it's gotta be more than fifty pages, it's gotta be more like 500 to 1000.

Kulek: I'm going to assume that the fifty pages Mr. Nathanson is referencing is probably the bank records.

Opperman: Sounds like it.

Kulek: Other than that, he has a multitude of documents in this case. As far as being re-presented to him, I would have to turn to my attorney to see if he resubmitted them or not. But I assure you that Mr. Nathanson has the majority of those documents, your honor.

17:30

Opperman: I'm going to get back to you in just a minute, Mr. Kulek. Mr. Nathanson, is that true that you've got some of these documents from a previous lawsuit?

Nathanson: I have some documents from a previous, they were from several previous files, your honor. However, none of the documents are responsive to the majority of the paragraphs. What I was given in the civil lawsuit was a box of jumbled papers, some that had HTML website code on them, which I think really meant nothing to me, and still doesn't to this day. Certainly none of the financial records that we requested for Mr. Kulek's business, none of the documents to show how much he was paid from people, when he was paid, nothing, certainly not the check copies from the account, certainly no payroll records, no indication no profit loss, no general ledgers, no accounting for any inventory, which Mr. Kulek purchased, which the trustee is currently trying to investigate, because mysteriously all of Mr. Kulek's inventory in his business disappeared, and he's the only one to know where it went, and he's just absolutely failed to produce any evidence regarding that. I mean I could go through the entire list of thirty-seven items and I can assure the court that the lion's share, the majority that Mr. Kulek has provided, nothing. Absolutely nothing to the trustee. And certainly not in the civil lawsuit either. I will tell the court that during the civil lawsuit, the entire position of Mr. Kulek and the other defendants was just subterfuge and smoke and mirrors to not provide any meaningful discovery whatsoever.

Opperman: What kind of inventory did Mr. Kulek have?

Nathanson: I'm sorry, your honor?

Opperman: What kind of inventory would Mr. Kulek have on the business end of this?

Nathanson: He was producing 250 pinball machines, he had a number of cabinets, play fields for the pinball machines, the electronics that went into the pinball machines. He took delivery of 250, in the pinball world they're known as 'toys' so it's all the accoutrements that are placed on the pinball machine, he paid for and received all those. Those have disappeared. Mr. Kulek additionally, the trustee believes that he's run or has run or is continuing to run a, what's known in the industry as a "route," where he places the pinball machines and vending machines and coin-op machines and then collects the money from them. Mr. Kulek disclosed none of that. Yet I actually have photos, recent photos, of Mr. Kulek allowing his children to play on two or three of those machines, which were undisclosed. I've asked for those assets, he hasn't provided any explanation for those recent photos, and the list your honor just goes on and on and on, of what Mr. Kulek has not produced. And Mr. Kulek only produces information or acknowledges assets when the trustee locates them other than the cooperation of the debtor, and that's the problem we've had with this case from day one with Mr. Kulek.

Opperman: Have you been in contact with Mr. Hodgson about the documents, Mr. Nathanson?

Nathanson: I have been, well Mr. Hodgson appeared for the second meeting of creditor, the second 2004B I'm sorry, and came with no documents. I sent several emails to Mr. Hodgson about the documents and about Mr. Kulek, beginning way back in October. I have, from October through the end of the year, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen emails for Mr. Hodgson asking for Mr. Kulek's compliance. The last being December 19.

Opperman: Mmhmm. And no response?

Nathanson: No response.

Opperman: Mr. Kulek, how do you respond to what Mr. Nathanson just told me about all these things?

22:30

Kulek: Well it's kind of at the core of Mr. Nathanson's approach to this case is generally attacking me based on hearsay. I don't know where these rumors of a "route" come from, but he's already provided false evidence at the 341 meeting to try and show that I'm not running a route. I have very little in the way of inventory and I've spoken with Mr. Frank at the last 341 meeting about these things will appear on my adjusted schedules. as far as him not having a copy of money paid in and people I owe money to, that's, that's a flat-out lie. He's been provided with excel documents that show names, names and addresses of every single person who was involved in my project, with the amounts that they had paid in. And again, that was provided multiple times. The fact that he would state to you that I provided him absolutely nothing appears malicious in intent, to me.

Opperman: Let's just wait a sec. I'm looking at the papers you filed with this court, and I get to the part where I see your disclosure of assets.

Kulek: Mmhmm.

Opperman: And I've got the total of \$3,700 in assets. That sound about right?

Kulek: It does.

Opperman: So these items that Mr. Nathanson is talking about, are they owned by you, or are they owned by your corporation?

Kulek: I don't know what items he's talking about. Specifically there were some, there were some pinball adornments, I believe he called them accoutrements. Those things I do have, and this is part of having to readjust my schedules. Those, those parts aren't worth anything, and when I was filling out the schedules initially, you know I just, I assume that if it's not worth anything, it shouldn't have to be listed. I've since been informed that even if I see it, and the community sees it as zero value, it still should be listed. These are things I need to update in my schedule.

Opperman: Well these schedules were filed in June of last year, how much time do you need to do that, sir?

25:00

Kulek: Well I was going to have an accountant help me out with the business end of, or the numbers end of the closing out the business stuff, but I haven't been able to afford one. I believe the term is insolvent? I most certainly am broke, for whatever term it is. There's, I'm not hiding anything. I don't have money stored or hidden anywhere. There is certainly not a discrepancy of \$600,000-\$700,000. Your honor, I filed bankruptcy because I am completely destitute and Mr. Nathanson's previous attempts to collect from me through civil court have absolutely destroyed me financially and his continued internet presence to not only allow, but facilitate my harassment has essentially destroyed every aspect of my life that I've worked up to this point for. The claims that he is making are very very strong, but very baseless. And this is not the place to be pitching an argument or a case, I'm here to talk to you about my willingness to cooperate.

Opperman: Right.

Kulek: And I believe that's paramount. I'm here to tell you that I'm willing to cooperate and I'll do whatever you say I need to do to get through this amicably. Rumors or personal attacks aside, from Mr. Nathanson, I believe that there is a due course here and I want to follow it.

Opperman: What about Mr. Nathanson's comments on the thirty-foot RV for your mother and the five laptops?

Kulek: Again, baseless hearsay. My children did get laptops for Christmas. My mother does own a trailer. That has nothing to do with me. I'm sure this is more things that were posted to the internet in which Mr. Nathanson frequents, not only to gather information, but to also share it.

Opperman: Mr. Nathanson, how quickly can you get to Bay City in the next week or so?

Nathanson: Uh, let me look at my calendar, judge, and I will let you know.

Opperman: Sure.

Nathanson: Just bringing it up on the screen here.

Opperman: Mmhmm.

27:30

Nathanson: Let's see. Monday and Tuesday I'm in court. Wednesday I have a hearing in Oakland County Circuit Court. Thursday afternoon I am available. Potentially Thursday morning if I can settle a hearing with opposing counsel, which I'm fairly confident I can do.

Opperman: I see. Well, the morning's pretty busy around here on Thursday. What about Friday?

Nathanson: I have afternoon court appearances, but I am available in the morning as long as I'm back in this area of the state by approximately one p.m.

Opperman: How long do you think you're going to need with Mr. Kulek if you have the documents that you're looking for?

Nathanson: Probably, I would say probably four hours.

Opperman: Fair enough. Mr. Kulek, what's your schedule look like on Thursday or Friday of next week? That's the 26th or 27th.

Kulek: The only day that I would ask to not have anything happen is the 26th. I have another court hearing in Henry County, Ohio that day.

Opperman: Oh, where's Henry County?

Kulek: Napoleon, Ohio. It's like...

Opperman: Sorry, still not helping me a lot.

Kulek: Middle of nowhere.

Opperman: Okay.

Kulek: Go to Toledo and go south for another hour.

Opperman: Wow. So the 26th, which is a Thursday, is bad for you?

Kulek: Bad for me. Any other day is fine.

Opperman: Next question, do you have a passport?

Kulek: No, I don't believe so.

Nathanson: I'd ask the court to inquire whether Mr. Kulek also has an enhanced driver's license, which will be functionally equivalent of a passport, your honor.

30:00

Opperman: Fair question.

Kulek: I do not.

Opperman: Do you understand what that concept is?

Kulek: I do. And no I don't

Opperman: He says he does not, Mr. Nathanson.

Nathanson: Thank you, your honor.

Opperman: Mr. Nathanson, anything more that you want to put on the record at this time?

Nathanson: I have nothing further with respect to Mr. Kulek, I would just indicate to the court that I did speak with Mr. Cowley at the US Trustee's office and he's planning on filing an AP next week on this matter, as well, so I just, really your honor, the trustee is at his wit's end. We've just got no compliance now for seven months from Mr. Kulek, and it's only after this court ordered him apprehended that Mr. Kulek has any interest in this bankruptcy case. It has cost the trustee and my office, on behalf of the trustee, an inordinate amount of time only to be met with noncompliance, so I mean I just don't think the court should tolerate that.

Opperman: Thank you, Mr. Nathanson. One more question, what does your Monday, January 30, look like?

Nathanson: I'm available all day, judge, on the 30th.

Opperman: Mr. Kulek? Are you available that day as well?

Kulek: I believe so.

Opperman: Very good. This is what the court will do: Mr. Kulek, one, give me enough information so I understand better what's going on here. I'm not completely satisfied that you've complied with the orders of the court. In fact, I'm pretty sure you haven't. You have however given me some reason to believe that you will. So this is what I'm going to do: First off, I want you to realize that all I could do is just direct the US Marshals to take you and incarcerate you for as long as I feel like until I know that you're going to comply. You understand that, sir?

Kulek: I do understand that.

32:30

Opperman: I can also fine you, and that is an issue here that I will address later on, but frankly what I think the trustee wants is to get the information that he has asked for, and it doesn't do anyone a lot of good to put you in jail, or fine you when you can't pay the fine right away, when the real goal here is to get the information. Mr. Kulek, I'm going to do the following: First off, again after thanking the Marshals for getting you here today, I have hope that I don't ever have to do that again to get you here, because if I do, you are not going to be worrying about whether you're gonna go home or not. You're gonna stay in custody of the Marshals for a long time. You understand that, sir?

Kulek: I do understand that. I'd also like to add that the Marshal and his team that came to my home today treated me with the utmost respect and dignity, and I just want that to be on the record.

Opperman: Thank you. So you've got that going for you, as well. Thank you again, to the Marshals, on that front. Sir, what I'm going to do is number one, I want you to listen carefully: you're to stay in the United States of America, I'm going to let you go to Ohio, because I know you have a court hearing on that day on Thursday.

Kulek: Thank you so much.

Opperman: But no further than Ohio. Clearly not in Canada. Not anywhere else. I'm taking you at your word that you do not have a passport. If I find out that you do leave the country between now and then, may God have mercy on your soul, sir. You understand that?

Kulek: No worries, sir, your honor.

Opperman: You sure?

Kulek: Yes. Yes I am certain.

Opperman: Okay. Second, you're not to dispose of anything other than just to buy groceries or something like that between now and whenever I see you again, because I can't have anything more going outside, if there is anything going. And if there isn't, then there shouldn't be a problem there. Three, I want you to contact your attorney as soon as possible to find out exactly where these documents are, because you're telling me you gave your attorney all of these documents, Mr. Nathanson says that he hasn't gotten them, and there's a disconnect here somewhere. And whatever, I want to have those documents in Mr. Nathanson's hands by Thursday, next week, that's the 26th, the same day you're supposed to be in Ohio. So work with your attorney on that and if something didn't get sent or something is missed, you have to get those documents to Mr. Nathanson. Next, I'm going to require that you be here Friday morning, the 27th, and Mr. Nathanson I want you to make arrangements to have a court reporters here and you can start asking Mr. Kulek all the questions that you want. We have a conference room that can be used, that way Mr. Kulek you won't feel intimidated by anyone to your safety, because you can't get in here with a gun or anything, that's one of the things that our security officers do a great job of. So you don't need to worry about that, and neither does Mr. Nathanson. I'm going to ask that examinations start at 9 o'clock. I'm here that day, and that's one of the reasons I picked that day, because if there's a problem, you and I get to talk again. And likewise, Mr. Nathanson, if there's a problem, you and I get to talk again, too.

Nathanson: Understood, your honor.

Opperman: Because I want this cleared up. Mr. Nathanson, I know you need to leave to be back downstate, that's fine. I've got Monday the 30th open all day. I've got matters going on, but we'll reserve a court conference room for you, and that should be more than enough time to answer the questions that you have for Mr. Kulek, Mr. Nathanson, and I think that's the best solution I can come up with now. Mr. Kulek, one more thing, I'm going to continue this hearing and I'm going to continue the issue of whether I should impose more sanctions upon you until I see what happens on Thursday and Friday of next week, and Monday of the week thereafter. You understand that, sir?

Kulek: Yes, sir.

Opperman: And sir, again, if I find out that you're violating any of these orders, may God have mercy on you.

Kulek: You have nothing to worry about, your honor.

Opperman: Thank you. Anything more, Mr. Nathanson, that I can accomplish today from your standpoint?

Nathanson: Nothing further this morning from the trustee's position, thank you for your time this morning. I appreciate it.

Opperman: You're welcome. Mr. Kulek, anything that I could perhaps clarify with you in terms of what I want you to do and not do?

Kulek: The only question I have is what do I do if I can't get ahold of my attorney?

Opperman: What I would suggest you do is try mightily, and Mr. Nathanson would you accept a phone call from Mr. Kulek if he can't get ahold of Mr. Hodgson's by say Wednesday?

Nathanson: Well ethically, your honor, I have a problem with that unless I have written permission from Mr. Hodgson to do so.

Opperman: Right.

37:30

Nathanson: However, if the court puts it in an order, I think that should be sufficient. I will send an email today to Mr. Hodgson advising him that Mr. Kulek's going to be contacting him and asking for written confirmation that if he's not going to mitigate with me regarding Mr. Kulek, that Mr. Kulek be allowed to contact my office directly.

Opperman: Right. Would email be a better way to contact you, Mr. Nathanson? I'm currently just -- what I worry about is the give and take that might violate attorney-client privilege, be viewed as being overly aggressive, and all I would be looking for, Mr. Kulek, would be a statement from you saying I've tried to contact Mr. Hodgson, but he's not returning my calls, or something like that, so that Mr. Nathanson knows exactly what to expect. Would that be a better method, Mr. Nathanson?

Nathanson: I think that would be fine, your honor, as long as if Mr. Kulek is going to direct an email to my office that he also CC Mr. Hodgson on it, so at least Mr. Hodgson will be, in theory, receiving the emails that he is sending as well, so at least if there's no -- I just don't want to run into the issue where it's construed that I'm having communications with someone who is represented by counsel. That's my great concern.

Opperman: Right. We could either do that or the other method would be if you can't get ahold of Mr. Hodgson, Mr. Kulek, just file a very short paper with this court on Wednesday, which again just says "I tried to get ahold of Mr. Hodgson X number of time, and he's not responded." And that way Mr. Nathanson, you get a copy of that immediately.

Nathanson: Correct. Yeah, I obviously filed that on ECF and then I would obviously, any communications with Mr. Kulek I'll continue to carbon copy Mr. Hodgson on. And I obviously will act at the court's directive, but again my great concern is having some sort of ethical violation for contacting someone who has an attorney who has an appearance in a matter.

Opperman: No, I think that -- I understand your concern. I like that approach better. Sir, if you can't get ahold of your attorney by say, Wednesday, just have someone file a piece of paper, and it's gotta be, you know, the heading of your case and what have you on it, and just a very short simple "I tried to contact Mr. Hodgson X number of times and he's not responded to my calls," or whatever you want to say on that front. You file with the court, what we do is we'll scan it in and then Mr. Nathanson will get it

electronically, so that saves him having to worry about one thing or another and you've got a record with this court as well. You understand that, sir?

Kulek: I do.

Opperman: Very good. Anything more, Mr. Kulek, in terms of inquiries with the court?

Kulek: No, your honor.

Opperman: Very good. Thank you. I conclude the record at this time. Mr. Kulek, thank you for being as cooperative as you have been throughout the day. I will allow the Marshals to release you at this time, but if you don't appear on either Friday or Monday or whenever we expect to see you here, they will come back and you will not be going home at that time. You understand that, sir?

Kulek: I do. Again, no worries, your honor.

Opperman: Thank you very much, I hope not. Thank you. Mr. Nathanson, we're going to close the record now.

Nathanson: Alright, thank you, your honor. Have a great day.

Opperman: Thanks.

Clerk: Court is in recess, all rise.

41:06

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