

**Department of Env'tl. Protection of the City of N.Y. v
Board of Mgrs. of the Kaybern Ct. Condominium**

2023 NY Slip Op 32649(U)

July 31, 2023

Supreme Court, New York County

Docket Number: Index No. 452707/2021

Judge: Laurence L. Love

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LAURENCE L. LOVE PART 63M

Justice

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DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
THE CITY OF NEW YORK, THE NEW YORK CITY WATER
BOARD,

Plaintiff,

- v -

BOARD OF MANAGERS OF THE KAYBERN COURT
CONDOMINIUM, LING LIN, SAYED H IMAN, UMMA
SAIMA, NANCY HUANG, RANDI CHEUNG, MEDEL D
LUZONG, THUNDERBOLT REALTY LLC,FRANKLIN
MACHUCA, MAGALIA GARCIA, ANTHONY J
GOLEMBIEWSKI, KAMRAN KHAN, HAIYAN ZHENG,
ANNA ROZMUS, SZCZEPAN GOGOLEWSKI, NORMA E
ROQUE-ABDALA, INDIRA SINGH, PARVIN ISLAM, XIU
QUIN CHEN, MU'TAZZ RAID BEY, MD A BASITH,
OSWALDO GARAY, SHARIFA BEGUM, HABIBA BEGUM,
AHMED S SARWARY, PRANANAND RAMNAUTH,
LACHMI D RAMNAUTH, SYLVIA BONE, RATAN C DAS,
MOONIRAM P RAMJIT, MILOS KOZANAK, MAGDALENA J
ALGARIN-KRYSCIAK, SUMENA BEGUM, SIU YUK POON,
GANG SHUAI ZHU, FRANKY NERESTIL, SHARON
GOORAHOO, WILLIAM CORRADINI, ELZBIETA KOPEC,
MARIA MURATURE, 74-13 101ST AVENUE REALTY
CORP, HASAN AHMED, MD SIBBIR AHMED, URMIL
ARYA, JOSEPH LODICO,

Defendant.

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BOARD OF MANAGERS OF THE KAYBERN COURT
CONDOMINIUM, SYLVIA BONE

Plaintiff,

-against-

RVP MANAGEMENT CORP., THUNDERBOLT REALTY LLC,
RICARDO VON PUTTKAMMER

Defendant.

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INDEX NO. 452707/2021
MOTION DATE 07/06/2023
MOTION SEQ. NO. 005

**DECISION + ORDER ON
MOTION**

Third-Party
Index No. 595869/2021

The following e-filed documents, listed by NYSCEF document number (Motion 005) 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 205, 207, 208, 209, 210

were read on this motion to/for CONTEMPT.

Upon the foregoing documents, the decision on defendant/third-party plaintiff, Board of Managers of the Kaybern Court Condominium's Order to Show Cause seeking an Order pursuant to Judiciary Law § 753(A) and CPLR §§ 2703, 3124, 3126, holding Third-Party defendants, RVP Management Corp., Thunderbolt Realty, and Ricardo Van Puttkamer in contempt based upon their failure to comply with this Court's prior orders, is decided as follows:

In an Order dated April 12, 2023, this Court appointed a temporary receiver for the Kaybern Court Condominium and *inter alia* directed Third-Party defendants to "within fourteen (14) days of service of this Order, begin to deliver to the Temporary Receiver on a rolling basis any and all papers and other things affecting the operation and management of KCC or any part or parts thereof which it, its agents or assigns, has in their possession, custody or control or which are in the possession of its members, managers, agents, servants or employees, including but not limited to, the following: (a) copies of all keys, access cards, or codes to entrance doors, storage and boiler rooms, etc., of the Property; (b) all leases or amendments thereto in effect for the tenants and equipment at KCC/Property; (c) copies of all current rent rolls and tenancy or unit owner lists relating to the KCC/Property; (d) a reconciliation of all security deposits and accounts, and a list setting forth each account number and the name of the depository wherein each account is maintained; (e) copies of all current financial statements, including, but not limited to, all documentation concerning delinquent tenants or unit owners at the KCC/Property; (f) all documents containing references to all utility accounts including, but not limited to, electricity, gas, heat, water and telephone service; (g) the names and account numbers of all utility companies servicing the KCC/Property; (h) copies of all insurance policies in effect for the KCC/Property and any part thereof; (i) copies of all contracts relating in any way to the KCC/Property including, but not limited to, contracts with vendors or other service personnel; (j) a list of suppliers and

copies of all contracts currently in force, including service and vendor contracts; (k) an employee roster and payroll information; (l) a list of any proceedings in any court regarding or relating to leases on the KCC/Property; (m) copies of any court stipulations for payment for rent or arrearages; (n) an equipment and inventory list; (o) the taxpayer identification number for KCC; (p) offering plan of KCC and all amendments thereto; (q) all board meeting minutes; (r) identify all KCC bank account numbers, deposit institutions where such accounts are located, and the signatories to those accounts; and (s) such other items, records, or documents that the Temporary Receiver may reasonably require to lease, manage and maintain KCC/Property.” Said Order was served upon the attorney for the Third-Party defendants on April 13, 2023.

In a letter dated May 9, 2023, the Temporary Receiver, Alexander Litt, Esq. wrote to this Court detailing his communications with Robert Gordon, Esq., counsel for the Third-party defendants, seeking compliance with this Court’s Order. Said letter specifically requested a Court Order directing Third-Party Defendants to comply with the prior Order. In an order dated May 9, 2023, this Court directed Third-Party Defendants to “within seven days of service of this Order, deliver to Alexander Litt any and all papers and other things affecting the operation and management of KCC or any part or parts thereof which it, its agents or assigns, has in their possession, custody or control or which are in the possession of its members, managers, agents, servants or employees, including but not limited to, the following: (a) copies of all keys, access cards, or codes to entrance doors, storage and boiler rooms, etc., of the Property; (b) all leases or amendments thereto in effect for the tenants and equipment at KCC/Property; (c) copies of all current rent rolls and tenancy or unit owner lists relating to the KCC/Property; (d) a reconciliation of all security deposits and accounts, and a list setting forth each account number and the name of the depository wherein each account is maintained; (e) copies of all current financial statements,

including, but not limited to, all documentation concerning delinquent tenants or unit owners at the KCC/Property; (f) all documents containing references to all utility accounts including, but not limited to, electricity, gas, heat, water and telephone service; (g) the names and account numbers of all utility companies servicing the KCC/Property; (h) copies of all insurance policies in effect for the KCC/Property and any part thereof; (i) copies of all contracts relating in any way to the KCC/Property including, but not limited to, contracts with vendors or other service personnel; (j) a list of suppliers and copies of all contracts currently in force, including service and vendor contracts; (k) an employee roster and payroll information; (l) a list of any proceedings in any court regarding or relating to leases on the KCC/Property; (m) copies of any court stipulations for payment for rent or arrearages; (n) an equipment and inventory list; (o) the taxpayer identification number for KCC; (p) offering plan of KCC and all amendments thereto; (q) all board meeting minutes; (r) identify all KCC bank account numbers, deposit institutions where such accounts are located, and the signatories to those accounts; and (s) such other items, records, or documents that the Temporary Receiver may reasonably require to lease, manage and maintain KCC/Property” and specifically advised said Third-Party Defendants that failure to do so would result in an appropriate sanction, resulting in the instant motion.

In opposition, Third-Party defendants submit the affidavit of Ricardo von Puttkamer, the president of RVP Management Corp. and Principal of Thunderbolt Realty, LLC which denied any knowledge of this Court’s prior orders and further details his attempts to contact his attorney, Robert Gordon, Esq. upon receipt of the instant Order to Show Cause. The Court has also received an additional letter from Alexander Litt, Esq., indicating that Puttkamer and his affiliated entities are complying with this Court’s Orders on a rolling basis.

Jud. L. § 753(A) authorizes this Court to punish a contemnor where: (a) there was a clear and lawful Order in effect expressing an unequivocal mandate; (b) such Order was disobeyed; (c) the contemnor had knowledge of such Order's terms; and (d) the movant was prejudiced by the violation. See Jud. L. § 753(A); *see Cashman v. Rosenthal*, 261 AD2d 297 (1st Dep't 1999). The recovery of costs and attorneys' fees from the contemnor is available under Jud. L. § 773 upon a contempt finding. *see Jamie v. Jamie*, 19 AD3d 330 (1st Dep't 2005).

As it is undisputed that Third-Party Defendants have now obtained new counsel and are providing the appropriate materials to the receiver, the Court declines to award sanctions, based upon the history an award of costs and attorney's fees is necessary. Movant has submitted a bill of costs and attorney's fees in the amount of \$7,631.35.

The court having determined that Robert L. Gordon, Esq., counsel for third-party defendants, has disobeyed a court order, and having set out above the reasons why the conduct has been found frivolous and that costs should be awarded, and having found that the amount of costs to be awarded is appropriate as set forth above, it is now therefore

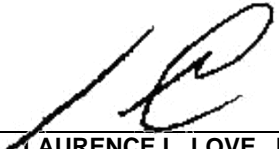
ORDERED that defendant/third-party plaintiffs' motion for costs is granted and Robert L. Gordon, Esq., counsel for third-party defendants, shall, without charge to his client, reimburse defendant/third-party plaintiff's for actual expenses reasonably incurred and reasonable counsel fees in the total amount of \$7,631.35; and it is further

ORDERED that payment of these costs shall be delivered to counsel for defendants/third-party plaintiffs and written proof of such payment shall be provided to the Clerk of Part 63 within 30 days after service of a copy of this order with notice of entry; and it is further

ORDERED that, in the event that timely payment is not made, the Clerk of the Court, upon service upon him of a copy of this order with notice of entry and an affirmation or affidavit reciting

the fact of such non-payment, shall enter a judgment in favor of the defendants/third-party plaintiffs and against said counsel in the aforesaid sum.; and it is further

ORDERED that proof of payment shall be provided to the Clerk of the Part and service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website).]

7/31/2023		
DATE		LAURENCE L. LOVE, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE