

FILED
San Francisco County Superior Court

JUN 16 2014

CLERK OF THE COURT

BY: Nancy B. Smith
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

JOSEPH CONNELLY,

Plaintiff,

v.

**COLLEEN HOLLAND, and DOES 1
through 20, inclusive,**

Defendants,

COLLEEN HOLLAND,

Cross-complainant,

v.

**JOSEPH CONNELLY, and ROES 1
through 20, inclusive,**

Cross-defendants.

No. CGC-12-523731

**[PROPOSED] ORDER FINDING
CONTEMPT OF JOSEPH CONNELLY**

Date: May 20, 2014

Time: 9:30 a.m.

Dept.: 306

Judge: Judge Lillian K. Sing

Complaint Filed: August 27, 2012

On May 20, 2014, this department received for resolution an Order to Show Cause ("OSC") Re Contempt issued on April 7, 2014 against plaintiff and cross-defendant Joseph Connelly ("Connelly").

Mark Boennighausen and Andrew Holland ("Attorney Holland") of the firm of Thoits, Love, Hershberger & McLean appeared on behalf of the complaining party, defendant and cross-complainant Colleen Holland ("Holland"). Attorney Holland also testified as a witness concerning his efforts on behalf of Holland to have Connelly comply with the court order at issue in this

1 proceeding.

2 Wallace Doolittle and Bradley Bayan of the Law Offices of Wallace Doolittle appeared on
3 behalf of Connelly.

4 Both Connelly and Holland were present during the entire contempt proceedings, which
5 consisted of two days of hearings held on May 20, 2014 and May 21, 2014.

6 Having considered the evidence presented and the legal arguments made the Court makes
7 the following factual findings and conclusions of law as set forth below.

8 **I. Factual and Procedural Background**

9 **A. Underlying dispute background.**

10 Connelly commenced this action in August 2012. Holland answered the First Amended
11 Complaint and filed a Cross-complaint. While the First Amended Complaint and Cross-complaint
12 have other claims, it appears that the central issue between Connelly and Holland concerns the
13 ownership and operation of a business called VegNews.

14 As established during the contempt proceedings and as reflected in the court files, in 2013
15 Holland sought a Preliminary Injunction against Connelly concerning the operations of VegNews.

16 On March 25, 2013, the Court (Judge Marla Miller) issued a Preliminary Injunction against
17 Connelly. The Preliminary Injunction was entered into evidence as Holland Exhibit H during the
18 proceeding. (The Preliminary Injunction order was also included as part of Holland Exhibit A,
19 which was also admitted into evidence).

20 **B. The Preliminary Injunction.**

21 Attorney Holland testified that the initial hearing concerning the Preliminary Injunction
22 ("PI"), the Court issued a tentative ruling in favor of Holland, after which the Court requested that
23 Holland and Connelly's attorneys meet and confer over the PI's terms. At this time, attorney
24 Donald Karpel represented Connelly.

25 Attorney Holland testified that this meet and confer resulted in many of the terms of the
26 Preliminary Injunction being agreed to but that some terms were not and that ultimately a proposed

1 order was submitted to the Court, which made the final decision on the PI's terms. There was also
2 testimony that Connelly was present at the hearings regarding the Preliminary Injunction. There
3 was no testimony introduced to contradict Attorney Holland's testimony regarding the
4 circumstances as to how the Preliminary Injunction ("PI") came to be issued.

5 As a predicate factual finding, the PI states: "Ms. Holland demonstrates that she is a co-
6 owner of the business and plaintiff Joseph Connelly ("Mr. Connelly") has been misusing his
7 position to her detriment. A preliminary injunction is necessary to preserve the status quo."

8 The PI provides as follows under the heading: "PRELIMINARY INJUNCTION"

9 "Pending trial or upon further order of the Court, pursuant to Code of Civil Procedure
10 section 526, Mr. Connelly, his respective agents, employees, representatives and all persons in
11 active concert with any of them, jointly and severally, are enjoined from:

- 12 1. Moving, transferring or relocating any VegNews' property, accounts, the principal
13 place of business, the domicile of the business, or its principal operations, locale, or
14 place of business from the state without the prior written consent of Ms. Holland.
15 This includes changing the postal or physical address;
- 16 2. Modifying, cancelling, closing, opening or precluding Ms. Holland from access to
17 any business, financial, banking, or investment accounts used for VegNews'
18 business without the consent of Ms. Holland;
- 19 3. Using any credit card, line of credit or funds from any account held for the business
20 purposes of VegNews for any personal expense or matter, including the payment of
21 his attorneys' or professional fees and costs in connection with this dispute; and
22 4. Preventing, interfering with or obstructing Ms. Holland's access to the financial and
23 business records of VegNews.

18 And, it is further mandated by this order, effective immediately, that:

- 19 1. Mr. Connelly shall immediately add Ms. Holland as a joint signatory of the account
20 maintained by the parties at the Santa Cruz Credit Union and any other banking,
21 financial, investment or credit card accounts held for the benefit of VegNews'
22 business, and shall forthwith provide an accounting to Ms. Holland of all of said
23 funds that were withdrawn from the Santa Cruz Credit Union account since the date
24 that Ms. Holland's name was removed from the account as a signatory. To the
25 extent that any funds were improperly removed, Mr. Connelly shall return and
26 refund forthwith all sums, plus interest at the legal rate of 7%, to said bank account;
and
2. All VegNews' financial and business records shall be available for inspection by
Ms. Holland forthwith."

1 For reference purposes, the Court will refer to these six PI provisions as follows: 1, 2, 3, 4
2 and 1a and 2a respectively. It is apparent PI terms 1a and 1b required Connelly to take affirmative
3 action with regard to the items mentioned in those provisions.

4 **C. PI Time Period 1 (March 25, 2013 to May 28, 2013).**

5 Attorney Holland testified that after the Court issued the PI order, he sought compliance by
6 Connelly through communications with Connelly's then counsel, Donald Karpel. Attorney Holland
7 testified that those efforts were unsuccessful leading him to send Mr. Karpel a letter dated April 4,
8 2013, which was entered into evidence as Exhibit O. This exhibit identifies specific violations of
9 the PI by Connelly and also includes an April 2, 2013 email from Holland to Connelly demanding
10 that Connelly comply with the PI regarding specific financial and business accounts of VegNews,
11 accounts that Holland also testified about during these proceedings.

12 Attorney Holland further testified that he did not receive a satisfactory response to his
13 efforts to get Connelly to comply with the PI and because of Connelly's non-compliance of the
14 specific items listed in Exhibit O, Holland sought an OSC order from this Court to begin the
15 process of holding Connelly in contempt. Attorney Holland testified and the court records reflect
16 that the Court issued an OSC against Connelly on April 17, 2013, with a contempt hearing set for
17 May 10, 2013.

18 Subsequent to this order, Connelly retained new counsel, David Nied, who moved for a
19 stay of the PI order, pending an appeal of that order. After briefing on the issue, the Court (Judge
20 Marla Miller) granted a stay of the PI order on May 28, 2013, "pending an appeal." The Court's
21 stay order, which vacated the scheduled contempt hearing, provided that the stay was granted
22 "without prejudice" to Holland renewing her OSC efforts. The stay order did not disturb any of
23 the PI's predicate factual findings.

24 **D. PI Time Period 2 (March 1, 2014 to May 21, 2014).**

25 After Connelly received the stay of the PI order pending his appeal, court records reflect
26 this case had an October 15, 2013 trial date. Attorney Holland testified that on October 16, 2013

1 after being ordered to appear for his deposition, Connelly did not appear. Instead, later that
2 afternoon, Connelly filed bankruptcy and removed this action to the United States Bankruptcy
3 Court for the Northern District ("Bankruptcy Court").

4 According to Attorney Holland's testimony, in Bankruptcy Court, Connelly sought a
5 Temporary Restraining Order ("TRO") to restrict Holland's activities with regard to VegNews. In
6 doing so, Connelly failed to disclose to the Bankruptcy Court that this Court had issued its March
7 25, 2013 order, an order that Connelly was appealing. Connelly's TRO was denied and this case
8 was remanded back to this Court. Holland was also granted relief from stay to pursue this action in
9 December 2013.

10 Attorney Holland also testified that Connelly did not pursue his appeal once the relief from
11 stay was granted. Instead, after seeking repeated extensions, Connelly never filed an opening brief
12 and dismissed his appeal. In the proceedings before the Court, the parties did not dispute that no
13 later than March 1, 2014, the PI was no longer stayed because of Connelly's dismissal of his
14 appeal.

15 Attorney Holland further testified that in light of the stay no longer being in effect and the
16 PI being back in force, he sent a March 3, 2014 letter to Connelly's attorneys demanding
17 compliance with the PI. This letter, which was introduced as defendant's Exhibit P, included a
18 specific demand that Holland be added to the VegNews' Wells Fargo account. Attorney Holland
19 testified that Connelly's lawyers failed to respond to this letter and that Connelly failed to comply
20 with the majority of the terms of the Preliminary Injunction.

21 Accordingly, he testified on behalf of Holland that he initiated contempt proceedings
22 through seeking an OSC.

23
24 **E. Holland receives OSC re Contempt and a contempt hearing is scheduled
after the parties are permitted to file briefs.**

25 On April 4, 2014, Connelly retained new counsel, the Law Offices of Wallace Doolittle.
26 On April 7, 2014, Holland sought and this Court (Judge Ernest Goldsmith) granted Holland's ex

1 parte application seeking an OSC re contempt against Connelly. Pursuant to the Court's April 7,
2 2014 order, the parties were ordered to file briefs, with a contempt hearing scheduled for May 2,
3 2014.

4 The parties filed their respective legal filings as required by the April 7, 2014 order.
5 Holland's legal filings included a charging declaration and an explanation of the contempt
6 violations by Connelly at issue, including supporting evidence. In response, with his April 21,
7 2014 filing, Connelly did not file any declaration contesting the charges. Instead he raised
8 procedural objections, including a claim that he was entitled to a jury trial. Holland's reply papers
9 submitted evidence that Connelly had been personally served with the papers supporting the
10 contempt allegations and correctly pointed out that this was a civil contempt proceeding and that as
11 such, Connelly had no unfettered right to a jury trial. (See *Pacific Tel. & Tel Co v. Superior Court*
12 (1968) 265 Cal.App.2d 370, 371 – 375).

13 The contempt proceedings did not commence on May 2, 2014, as Connelly sought and was
14 granted an ex parte application to move the proceedings to May 16, 2014. After a short delay
15 because of a transfer to another department of this matter for law and motion purposes, on May 20,
16 2014, the Court's Presiding Judge assigned the matter to this department for resolution.

17 **F. The contempt proceedings before this department.**

18 On May 20, 2014 and May 21, 2014 the Court conducted the contempt proceedings. The
19 following witnesses were called by Holland: Christy Griffin, Colleen Holland and Andrew
20 Holland. Holland also submitted into evidence certain portions of previous Connelly sworn
21 testimony, from a creditor's meeting and Connelly's deposition.

22 Connelly called the following witnesses: Jack Thompson and offered Christy Griffin as a
23 rebuttal witness generally so she could change portions of her testimony she gave the day before.
24 Connelly did not testify but was present during the entire proceedings.

25 The parties also offered certain documents into evidence, which are referenced when
26 appropriate in this decision. After the close of evidence, counsel for Holland and counsel for

1 Connelly submitted closing arguments and the matter was submitted. The Court asked both parties
2 to file and submit proposed orders.

3 II. Legal Analysis and Factual Findings

4 A. Legal elements constituting contempt.

5 Contempt proceedings are used to ensure compliance with court orders. As such,
6 “[d]isobedience of any lawful judgment, order, or process of the court” constitutes contempt.
7 (*Conn v. Superior Court* (1987) 196 Cal. App. 3d 774, 784 (quoting Code Civ.Proc., sec. 1209,
8 subd. (a)(5)).)

9 The elements of contempt are: “(1) the rendition of a valid order, (2) actual knowledge of
10 the order, (3) ability to comply, and (4) willful disobedience. (Weil & Brown, *supra*, pars. 9:337-
11 9:340.)” (*Conn, supra*, 196 Cal.App.3d at 784.) There are two types of contempt, direct and
12 indirect. Because the conduct at issue here did not take place before the Court, this proceeding
13 concerns allegations of indirect contempt. (*In re M.R.* (2013) 220 Cal.App.4th 49, 57.) Proof of
14 civil contempt must be established beyond a reasonable doubt. (*In re Witherspoon* (1984) 162
15 Cal.App.3d 1000, 1001.)

16 When enforcing a court order, such as an injunction, a court will look to the predicate
17 factual findings of the order to aid the enforcement and interpretation. (*City of Vernon v. Superior*
18 *Court* (1952) 38 Cal.2d. 509, 514.) Here, the predicate factual finding for the PI was that Holland
19 had established her status as co-owner of the VegNews business and that Connelly was misusing
20 his position as co-owner to the detriment of Holland.

21 Further, when contemptuous conduct is continuous over a period of time, the court has the
22 power to issue separate violations for each day that the offending party violates an order. (*Solano*
23 *Aquatic Club v. Superior Court of Solano County et. al.* (1913) 165 Cal. 278, 279. “Disobedience
24 of any lawful judgment, order, or process of the court” is contempt (Code Civ. Proc., sec.
25 1209(a)(5)), and every separate act of disobedience is a separate contempt. (*Golden Gate*
26 *Hydraulic Mining Co. v. Superior Court of Yuba* (1884) 65 Cal. 187; *Donovan v. Superior Court*

1 of State, In and For Los Angeles County (1952) 39 Cal.2d 848, 855.) "[T]he 'crucial question' in
2 determining whether separate adjudications of contempt are proper is whether these separate
3 adjudications 'were based upon separate insults to the authority of the court, not whether the
4 insults happened to occur on the same or different days.'" (*Conn v. Superior Court* (1987) 196 Cal.
5 App. 3d 774, 787 (quoting *Reliable Enterprises v. Superior Court* (1984) 158 Cal.App.3d 604,
6 621).)

7 **B. Sanctions that may be awarded on finding of contempt.**

8 Contempt is a serious matter. Imprisonment is possible punishment, with up to five days in
9 jail per violation. (C.C.P. § 1218 (a).) In addition, monetary penalties are authorized as
10 appropriate sanctions, with a fine of up to \$1,000 per violation. (*Id.*) Further, upon a finding of
11 contempt the individual "adjudged guilty of contempt for violating that court order may be ordered
12 to pay to the party initiating the contempt proceeding the reasonable attorney's fees and costs
13 incurred by this party in connection with the contempt proceeding." (*Id.*)

14 **C. Holland established that Connelly is in contempt of court.**

15 Having considered the evidence, the Court concludes that Holland has proven beyond a
16 reasonable doubt, as discussed below, all the necessary elements to find Connelly in contempt.

17 1. *The Court's March 25, 2013 PI is a valid order and Connelly had notice*
18 *of it.*

19 There was no dispute during the proceedings that the PI order is valid. The record reflects
20 it was signed and entered by a judicial officer of this Court, Judge Marla Miller. The record also
21 reflects that the Court issued the PI after extensive hearings and briefings by the parties. Connelly
22 also appealed this PI and then dismissed his own appeal, without filing even an opening brief.

23 Further, the Court finds that Connelly had notice of the PI. There was testimony he was at
24 the PI hearings. He sent an April 9, 2013 e-mail to Holland that references the order (Exhibit C).
25 He also testified about the PI under oath at his first bankruptcy creditor's meeting on November 12,
26 2013. He also has employed numerous counsel who have been litigating this matter, including

1 initiating a motion for a stay of the order and then an appeal. And there was no testimony
2 presented by Connelly that he claimed not to be aware of the PI at any time relevant to these
3 proceedings. Accordingly, there is no question that Connelly was well aware of the PI.

4 2. *Connelly had the ability to comply with the order.*

5 The Court also finds that Connelly had the ability to comply with the provisions of the
6 order. The evidence on this point is substantial. For example, Holland testified that Connelly
7 regularly handled the administrative technical aspects of the VegNews' e-mail business account
8 through the PowWeb e-mail service. Connelly's counsel introduced e-mail communications from
9 2005 (Exhibits 2, 3) establishing this practice. Connelly also sent an April 9, 2013 e-mail to
10 Holland that discussed what he demanded for him to fully comply with the order (Exhibit C).

11 Christy Griffin testified that Connelly hired her to be the "office manager" for VegNews
12 and that she takes direction from Connelly, including instructions with regard to the "Shopify"
13 VegNews' business account at issue in this proceeding. Ms. Griffin also testified after the PI was
14 no longer stayed, she consulted with Connelly regarding whether to provide the VegNews business
15 records requested by Holland on April 29, 2014 and April 30, 2014 (Exhibit B) and that Connelly
16 "advised" her not to provide those records.

17 Connelly testified in his April 7, 2014 deposition that he "had not yet" provided access to
18 Holland to the VegNews' QuickBooks accounting system. Santa Cruz Credit Union witness Jack
19 Thompson, put on the stand by Connelly's counsel, also testified that Connelly had the ability to
20 request statements concerning the Santa Cruz Community Credit Union account referenced in
21 provision 1a of the PI to be able to perform the accounting required by the PI. The evidence is also
22 undisputed that Connelly has never provided the accounting required by PI term 1a.

23 Holland also introduced a VegNews April 2014 check from a Wells Fargo account signed
24 by Connelly (Exhibit E-1) to which she was not a co-signatory and which is clear Connelly opened
25 subsequent to the PI being issued. On this point, the Court also takes judicial notice of an April 16,
26

1 2014 written order concerning an April 4, 2014 ruling made by the United States Bankruptcy Court
2 for the Northern District (Judge Dennis Montali), entered into evidence as Exhibit N.

3 This order found that any claim by Connelly that any VegNews account was part of his
4 personal bankruptcy estate was "inconsistent with the Superior Court's preliminary determination."
5 The order also clearly explained that the Bankruptcy Court's December 2013 ruling granting
6 Holland relief from the automatic stay allowed this Court to enforce to the fullest extent possible
7 Court's March 25, 2013 order, including holding Connelly in contempt. The Bankruptcy Court
8 order also plainly stated that if Connelly deposited money into anything he called a VegNews'
9 debtor-in-possession account or disbursed money from that account, the court could find him in
10 contempt of court. Accordingly, the evidence before the Court is that nothing concerning
11 Connelly's bankruptcy caused him to be unable to comply with this Court's order.

12 3. *Connelly acted with willful disobedience in not complying with the*
13 *March 25, 2013 order.*

14 If an individual "with knowledge of the terms of the injunction and ability to comply
15 therewith, did not do so; it can be reasonably inferred that their inaction was intentional, despite
16 express disclaimers of contemptuous intent. 'Disclaimer of an intent to commit contempt is no
17 defense where a contempt clearly appears from the circumstances constituting the act. And one
18 cannot justify disobedience of an order of the court upon the ground that it was based upon the
19 advice of counsel; neither can such disobedience be excused by the fact that it was in good faith
20 and under a mistake as to the law.'[citations]." (*City of Vernon, supra*, 38 Cal.2d. at 518.)

21 Here, Connelly introduced no evidence that he had no intent to commit contempt so the
22 inference cited in the *Vernon* case is even more damning as to his willful conduct. With regard to
23 the recitation of the evidence cited below, the Court notes that because this is a case of indirect
24 contempt it need not state all evidentiary facts supporting an ultimate finding of willful violation of
25 an order, as such a finding will be upheld in a case of indirect contempt if it is supported by
26 substantial evidence. (See *In re Morelli* (1970) 11 Cal.App.3d 819, 851 *People v. Superior Court*

1 (Loar) (1972) 28 Cal.App.3d 600, 622, fn. 11; *In re Gould* (1961) 195 Cal.App.2d 172, 175.
2 Nonetheless, the Court provides the following evidence of Connelly's willful conduct.

3 Holland introduced evidence that Connelly maintained the VegNews accounting system
4 QuickBooks and made payments from the VegNews' credit card and bank accounts. On this point;
5 Exhibit K providing transaction detail of VegNews' payments, plainly establishes that on April 29,
6 2013, when the PI was in force and in violation of provision 3, Connelly made payments from
7 VegNews' funds to his personal lawyer retained for this matter and for court costs for this action.
8 Notably, this conduct occurred more than 25 days after Attorney Holland sent his April 4, 2013
9 letter to Connelly's counsel demanding compliance with the PI, twelve (12) days after the Court
10 had issued its April 17, 2013 OSC re contempt order and set a May 10, 2013 contempt hearing.

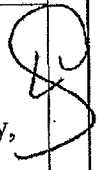
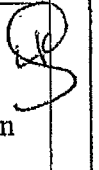
11 Holland also submitted evidence that even after the April 7, 2014 OSC was issued which
12 set in motion these proceedings, Connelly's current counsel on April 24, 2014 sent an e-mail
13 (Exhibit I) to Publishing Creative Services ("PCS"), a business account of VegNews, referring to
14 Connelly as "the owner" of VegNews and demanding that the vendor take exclusive instruction
15 from him, including demanding that PCS change the VegNews postal address to which it was
16 sending mail in violation of provision 1 of the PI.

17 Connelly also testified on April 7, 2014 at his deposition, despite Holland's counsel March
18 3, 2014 letter demanding compliance with the injunction, Connelly had "not yet" provided Holland
19 access to the VegNews' QuickBooks business account. Connelly also advised his employee,
20 Christy Griffin, not to treat Holland as a "co-owner" of the VegNews business or to grant Holland
21 access to any business information she requested, conduct which plainly shows Connelly's willful
22 intent with regard to non-compliance.

23 Thus, the evidence presented during the proceedings establishes beyond a reasonable doubt
24 that Connelly has failed to comply with the terms of the Preliminary Injunction and thus is
25 adjudicated in contempt of this Court. The specific contempt violations found by the Court are
26 specified below.

D. Specific contempt violations found against Connelly.

Based on the evidence admitted in the contempt proceedings and the applicable law, the Court finds the following specific violations of this Court's March 25, 2013 order beyond a reasonable doubt:

No.	PI Prov.	Date	Violation
1	3	4/29/13	Connelly paid an attorney representing him in this action Eric Milliken using VegNews funds from the VegNews' Santa Cruz Community Credit Union account.
2	3	4/29/13	Connelly paid litigation costs for this action using VegNews' funds by issuing a check to the Superior Court from the VegNews' Santa Cruz Community Credit Union account.
3	1a	4/29/13 - 5/28/13 and 3/1/14 - 5/21/14	Connelly has failed to return funds that he improperly removed from the VegNews' Santa Cruz Community Credit Union account on April 29, 2013 (e.g., funds paid to his personal attorney, Eric Milliken,) with interest at the rate of 7%. 
4	1a	4/29/13 - 5/28/13 and 3/1/14 - 5/21/14	Connelly has failed to return funds that he improperly removed from the VegNews' Santa Cruz Community Credit Union account on April 29, 2013 (e.g., funds paid to the Superior Court in connection with Connelly's personal litigation) with interest at the rate of 7%. 
5	4, 2a	3/25/13 - 5/28/13 and 3/1/14 - 5/21/2014	After placing a lock on his office where some VegNews' business and financial records are maintained prior to commencing the lawsuit, Connelly has refused to provide Holland with access to these business records or make them available for inspection. He continues to lock his office where these records are maintained and has not provided Holland with a key.
6	2	Mid-April 2013	After Connelly first removed Holland's access from the VegNews' American Express Starwood credit card account prior to the issuance of the

No.	PI Prov.	Date	Violation
			Preliminary Injunction, Connelly modified Holland's access to this account by placing a very low spending limit for Holland on it.
		Mid-April 2013	After Connelly first removed Holland's access from the VegNews' American Express JetBlue credit card account prior to the issuance of the Preliminary Injunction, Connelly modified Holland's access to this account by placing a very small spending limit for Holland on it.
8	1a	3/25/13 - 5/28/13 and 3/1/14 - 5/21/14	Connelly has failed to provide Holland with an accounting of funds he removed from the VegNews' Santa Cruz Community Credit Union account.
9	2, 4, 2a	3/25/13 - 5/28/13 and 3/1/14 - 5/21/14	After blocking Holland's administrative access to VegNews' PowWeb service business account in 2012, Connelly has failed to restore Holland's access to VegNews' PowWeb email service account.
10	2, 4, 2a	3/25/13 - 5/28/13	After blocking Holland's administrative access to VegNews' QuickBooks financial account prior to the litigation, Connelly has failed to restore Holland's administrative access to this account.
11	2, 4, 1a	3/25/13 - 5/28/13	Connelly failed to add Holland as a signatory to the VegNews' Bank of America account.
12	3	3/07/14	Connelly paid rent to Elizabeth "Buffy" McGuire for a personal apartment he rents using VegNews funds drawn from a Wells Fargo account.
13	1, 2, 4	3/14	After Connelly contacted Shopify, he instructed his employee, Christy Griffin, to open/modify VegNews' Shopify business account by changing the account settings from Holland's name to Connelly's (Ex. A).
14	4	4/29/14	After Connelly advised his employee Christy Griffin to ignore Holland's requests for VegNews business records, Ms. Griffin ignored Holland's

No.	PI Prov.	Date	Violation
			April 29, 2014 email to her requesting certain VegNews' business records.
15	4	4/30/14	After Connelly advised his employee Christy Griffin to ignore Holland's requests for business records, Ms. Griffin ignored Holland's April 30, 2014 email to her requesting certain VegNews' business records.
16	4	5/20/14	Connelly represented to Christy Griffin that Holland was a former VegNews' staff member and that Christy Griffin should ignore Holland's requests for business records. Ms. Griffin refused to provide Holland with VegNews' business records pursuant to a trial subpoena because she was told that VegNews did not authorize the production of these VegNews' business records to Holland.
17	1	3/1/14 - 5/21/14	Connelly changed the VegNews' address for where accounts receivable were received after VegNews' invoices are sent. X
18	1	4/24/14	Connelly, through attorney Wallace Doolittle, instructed VegNews' vendor, Publishers Creative Systems to send mail to a P.O. Box instead of the address where VegNews' office is located as was previously done. X
19	2, 4	3/1/14 - 5/21/14	After blocking Holland's access to her VegNews.com email address in September 2013, Connelly has failed to restore Holland's access to this account.
20	2, 4	3/1/14 - 5/21/14	After blocking Holland's access to VegNews' Salesforce account in August or September 2013, Connelly has failed to restore Holland's access to this account.
21	2, 4	3/1/14 - 5/21/14	After blocking Holland's access to VegNews' SurveyMonkey account in August 2013, Connelly has failed to restore Holland's access to this account.

No.	PI Prov.	Date	Violation
22	2, 4	3/1/14 - 5/21/14	After blocking Holland's access to VegNews' Twitter account in January 2014, Connelly has failed to restore Holland's access to this account.
23	2, 4	3/1/14 - 5/21/14	After instructing his employee Christy Griffin to change the account settings for the VegNews' Shopify account from Holland's name to Connelly's, Connelly has failed to restore Holland's access to this account.
24	2, 1a	3/1/14 - 5/21/14	Connelly has failed to add Holland as a signatory to the VegNews' Wells Fargo account.
25	2a	3/25/13 - 5/28/13 and 3/1/14 - 5/21/14	Connelly has failed and refused to make all VegNews' financial and business records available for Holland's inspection.

E. The court orders the following contempt sanctions assessed against Connelly.

The Court will not subject to Connelly to incarceration. The Court however, does fine Connelly \$1,000 per the violations of the PI identified above, for a total of ~~18,000.00~~ ^{#18,000.00}. The Court orders that this money be paid to Holland. The Court also finds that Connelly must pay Holland's attorney fees and costs incurred in connection with this matter. Based on the declarations submitted by Holland's counsel, the Court finds Connelly shall also pay Holland ~~\$44,206.15~~ ^{\$36,098.85} in attorneys' fees and costs.

Connelly shall make these payments no later than seven (7) days from the issuance of this order. If Connelly fails to make these payments and/or continues to violate the PI, Holland may bring a motion pursuant to CCP § 128(a)(4)(5) to request the Court to issue litigation sanctions against Connelly in this case, including possible dismissal for Connelly's complaint and entry of judgment in favor of Holland on all of her cross-claims. (*Del Junco v. Hufnagel* (2007) 150 Cal.App.4th 789, 800.)

1 Further, Connelly is ordered to immediately, ^{to} completely and fully ^{to} comply with all
2 provisions of the PI. Failure to comply with the PI will subject Connelly to further contempt
3 proceeds, including possible imprisonment.

4
5 Dated: 5/30/14


JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA
County of San Francisco

Department 306

JOSEPH CONNELLY

Plaintiff & Cross-Defendant

vs.

COLLEEN HOLLAND et al

Defendant

Case Number: CGC-12-523731

CERTIFICATE OF MAILING
(CCP 1013a (4))

I, Nancy E. Bautista, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On September 3, 2013, I served the attached **ORDER FINDING CONTEMPT OF JOSEPH CONNELLY** by placing a copy thereof in a sealed envelope, addressed as follows:

WALLACE C. DOOLITTLE
LAW OFFICES OF WALLACE C.
DOOLITTLE
580 CALIFORNIA STREET, 12TH FLOOR
SAN FRANCISCO, CA 94104

ANDREW P. HOLLAND
THOTIS, LOVE, HERSHBERGER &
MCLEAN
285 HAMILTON AVE, STE. 300
PALO ALTO, CA 94301

I, then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: June 16, 2014

T. MICHAEL YUEN, Clerk

By: 

Nancy E. Bautista, Deputy Clerk