

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS**

IN RE THE MARRIAGE OF:)	
Marianne Gockman,)	
Petitioner)	
)	No. 01-D-2966
v.)	
)	
Gene E. Gockman,)	
Respondent)	
)	

MOTION TO VACATE ORDER OF MAY 19, 2004

The Respondent, Gene E. Gockman, moves this Court to vacate the order of May 19, 2004. In support of his Motion, the Respondent states:

1. Contempt does not lie where a court has no jurisdiction. **Guertin v. Guertin**, 204 Ill.App.3d 527, 561 N.E.2d 1339 (1990) ("contempt will not lie where the court lacked jurisdiction to enter such an order.").

2. The Petition for Rule to Show Cause is based on a blank piece of paper. Void agreements are nothing more than blank pieces of paper, since they have no legal force or effect. Judges have no lawful authority to enforce void judgments.

3. All judgments issued wherein a party, who was not lawfully allowed to practice law, participated are void, as a matter of law. Recently, the Second District Appellate Court, in **Ford Motor Credit Company v. Thomas Sperry**, 344 Ill.App.3d 1068, 801 N.E.2d 954 (2003), cited, with approval, **Remole Soil Service, Inc. v. Benson**, 68 Ill.App.2d 234, 215 N.E.2d 678 (1966), which stated that "Proceedings in a suit by a person not entitled to practice are a nullity, and the suit may be dismissed. If the cause has proceeded to judgment, the judgment **IS VOID** and will be reversed." 7 C.J.S. Attorney and Client s 16b. [Emphasis added].

The judgment issued in this action is void.

4. The Circuit Court of DuPage County was notified by the Illinois Supreme Court on November 26, 2002 or immediately thereafter, that attorney Michael E. Tabor had been immediately suspended from the practice of law.

Chief Judge Kilander, pursuant to Supreme Court Rule 768, was notified of, and knew about the suspension of Michael E. Tabor, as well as did Judge Joseph S. Bongiorno. Yet Judge

Bongiorno allowed suspended attorney Michael E. Tabor to appear and practice law in this court, in spite of Tabor's suspension.

Judge Bongiorno knowingly, deliberately, and intentionally aided, assisted, facilitated, and abetted suspended attorney Michael E. Tabor's practice of law in this court. Judge Bongiorno should have held Tabor in direct criminal contempt of court, as did Judge James B. Linn, in the case of suspended attorney Richard R. Rothman, ACC 020061 (2002) and reported recently in case no. 1-02-2491 (2004), **People v. Richard R. Rothman**. But Judge Bongiorno did not.

5. A judge must also comply with the Rules of Professional Conduct, **In re Witt**, 145 Ill.2d 380, 583 N.E.2d 526 (1991), in addition to compliance with the Code of Judicial Conduct. Judge Bongiorno has not complied with the Rules of Professional Conduct nor with the Code of Judicial Conduct.

Judge Bongiorno has a duty under Illinois law to report the misconduct, or suspected misconduct, of Michael E. Tabor and Laura M. Urbik-Kern to the ARDC. Judge Bongiorno has not complied with Illinois law.

6. A judge loses jurisdiction if he does not comply with the procedure established by law. **Armstrong v. Obucino**, 300 Ill. 140, 143, 133 N.E. 58 (1921). The law requires that the party claiming that the court has jurisdiction prove to the Court that it does indeed have jurisdiction. The Defendant challenged the jurisdiction of this court. Judge Bongiorno did not require the Petitioner to prove jurisdiction.

Why? Because Judge Bongiorno knew that he was acting without jurisdiction.

Judge Bongiorno stated that he made note of the continuing objection to jurisdiction. Once jurisdiction is challenged, the court may not proceed without having definitely established that it does have jurisdiction. Allegations of jurisdiction are not enough. **Lombard v. Elmore**, 134 Ill.App.3d 898, 480 N.E.2d 1329 (1985) ("a trial court's express finding that it has jurisdiction does not confer jurisdiction."); **Hill v. Daily** (1975), 28 Ill.App.3d 202, 204, 328 N.E.2d 142.

Judge Bongiorno has violated the Defendant's Constitutional Due Process Rights. Judge Bongiorno is no longer acting in a judicial capacity; he is acting only in his person. **Scheuer v. Rhodes**, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974).

7. The Illinois Supreme Court has defined fraud by an officer of the court in **In re Eugene Lee Armentrout et al.**, 99 Ill.2d 242, 75 Ill.Dec. 703, 457 N.E.2d 1262 (1983) as:

"Fraud encompasses a broad range of human behavior, including " ' * * * anything calculated to deceive, * * * whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth or by look or gesture.' "

This definition of fraud by an officer of the court applies to all officers of the court, whether attorney or judge. **In re Witt**, *supra*.

Ms. Kern, as an attorney, should know the law that a corporation is a separate legal entity from a shareholder of the corporation. The professional services corporation of John A. Runion & Associates, P.C. is a separate legal entity from John A. Runion. Just as Laura M. Urbik-Kern is a separate legal entity from the professional service corporation of Kubiesa, Spiroff, Gosselar, Acker & Kern, P.C.

An attorney has a fiduciary duty to be truthful to the Court at all times. **City of Chicago v. Higginbottom**, 219 Ill.App.3d 602, 579 N.E.2d 890 (1991). Intent is not a requirement when one has a fiduciary duty, attempt is sufficient. Ms. Kern's attempt to deceive this court by her presentation of false information to this Court, and by arguing that the Defendant employed attorney John A. Runion when the contract of employment explicitly stated that the Defendant employed John A. Runion & Associates, P.C. deprives this Court of jurisdiction. Ms. Kern has engaged in fraud upon this Court. **In re Village of Willowbrook**, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); **Thomas Stasel v. The American Home Security Corporation**, 362 Ill. 350; 199 N.E. 798 (1935) ("Fraud vitiates everything"); **The People of the State of Illinois v. Fred E. Sterling**, 357 Ill. 354; 192 N.E. 229 (1934); **The People ex rel. The Chicago Bar Association v. Newton R. Gilmore**, 345 Ill. 28; 177 N.E. 710 (1931); **Allen F. Moore v. Stanley F. Sievers**, 336 Ill. 316; 168 N.E. 259 (1929); **In re Steven R. Jakubowski**, Disciplinary case no. 93 CH 455 ("Fraud includes the suppression of the truth, as well as the presentation of false information.").

8. Why did Judge Bongiorno not report suspended attorney Michael E. Tabor to the ARDC? Was it because Bongiorno would be investigated by the disciplinary commission for his being a party, along with attorney Laura M. Urbik-Kern, to the unlawful action of Michael E.

Tabor?

Instead Judge Bongiorno conspired with and colluded with Ms. Kern to cover up Judge Bongiorno's knowingly allowing suspended attorney Michael E. Tabor to appear in Court and to practice law during the period of his suspension.

Judge Bongiorno conspired with and colluded with Ms. Kern to cover up Ms. Kern's fraud upon this Court.

9. Judges have no discretion when it comes to a void order. They cannot lawfully enforce a void order. They cannot lawfully make a void order valid. They can however dismiss all actions based on the void order, or demonstrate their lack of knowledge of the law. Judge Bongiorno has demonstrated his lack of knowledge of the law, and/or demonstrated his lack of impartiality when it applies to Gene Gockman.

10. Judge Bongornio has conspired with and colluded with Ms. Kern in violating Gene Gockman's Constitutional Right to an adequate, complete, effective, fair, full, impartial and meaningful access to this Court.

11. Ms. Kern engaged in fraud upon this Court when she informed this Court that Judge Equi ruled against Gene Gockman, when she knew that Judge Equi has no discretion not to strike a void order. **Valley v. Northern Fire & Marine Ins. Co.**, 254 U.S. 348, 41 S.Ct. 116 (1920).

12. All orders issued by this Court, since November 27, 2002 are void, of no legal force or effect, and cannot lawfully be made valid.

The Petition for Rule to Show Cause refers to a non-existent order and one cannot be lawfully forced to comply with a non-existent order or violate a non-existent order.

13. Our Supreme Court has held that a court may not proceed to determine a cause of which it has no jurisdiction. **Martin V. Bankers' Life Co.**, 358 Ill. 388, 193 N.E. 197 (1934). This court has no jurisdiction at this time. It has no authority to proceed to enforce a void order.

14. The Illinois Supreme Court has held that the Rules of Professional Conduct ("IRPC") is the law in Illinois. **In re Vrdolyak**, 137 Ill.2d 407, 560 N.E.2d 840 (1990) ("the Code [now Rules] operates with the force of law."). Following the IRPC is mandatory, not discretionary. Attorney Laura Kern is in violation of IRPC 8.4(a)(7) ("A lawyer shall not assist a judge or judicial

officer in conduct that the lawyer knows is a violation of the Code of Judicial Conduct.”) Even Ms. Kern knows that a suspended attorney may not practice law in Illinois. Even Ms. Kern knows that she must report Judge Bongiorno to the Supreme Court (the Judicial Inquiry Board is a Board of the Illinois Supreme Court). Judge Bongiorno knows that Ms. Kern must report him to the Judicial Inquiry Board. However, Judge Bongiorno and attorney Laura Kern have agreed to conspire with, and collude with, each other to cover up their acts of misconduct by incarcerating Gene Gockman for exposing the misconduct of Judge Bongiorno.

The acts of fraud in not reporting attorney Michael E. Tabor and Judge Bongiorno by attorney Laura M. Urbik-Kern is another example in which she deprives this Court of any jurisdiction which it may have held.

15. A void judgment is one that is a complete nullity and without legal effect. Am.Jur. 2nd Judgments §31. “A void judgment is not entitled to the respect accorded to, and is attended by none of the consequences of, a valid adjudication.” A void judgment may be entirely disregarded; it has no legal or binding force for any purpose or at any place. It cannot affect, impair, or create rights, nor can any rights be based on it. . Am.Jur. 2nd Judgments §31.

A void judgment cannot be cured by subsequent proceedings. Even if John A. Runion & Associates, P.C. was not prohibited from practicing law in Illinois, the void judgment in which suspended attorney Michael E. Tabor participated and issued on July 25, 2003 by this Court would not be valid under any circumstances. There is no lawful way to cure the void judgment.

16. Should this Motion be transferred to another judge, then the judge to whom it is transferred has a duty to report the misconduct of Judge Bongiorno and attorney Laura M. Urbik-Kern to the proper authorities.

WHEREFORE, the Respondent, Gene E. Gockman, prays that this Court will vacate the order of May 19, 2004.

Respectfully submitted,

Gene E. Gockman

Gene E. Gockman

215 W. Main St.
Freeport, IL 61032