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Floyd dismisses motion for sanctions against coin fraud attorneys

Wednesday, March 12, 2008

By Marilyn Tennissen

Judge Donald Floyd granted a motion to dismiss sanctions against two attorneys that represent plaintiffs in fraud litigation against a Beaumont coin company.

On March 7, Floyd agreed that attorneys Jason Gibson of Houston and Jake Posey of Austin were not bound by a previous court order that prohibited another lawyer, Bill Voss, from soliciting customers of Universal Coin and Bullion.

UCB attorneys had filed a motion to enforce the March 30, 2007, order and to sanction Gibson, Posey and Voss for violating its terms.

The allegations against the attorneys stemmed from a 2004 lawsuit by UCB against a former employee of the rare coin marketing company based in Beaumont.

UCB alleged that former salesman John Rollins stole a confidential client list and gave the names to attorney Bill Voss, also a defendant, who then allegedly used the names to build a lawsuit against UCB. Voss, along with Gibson and Posey, are representing more than 50 plaintiffs in suits that claim the coin company had ripped them off.

Last year UCB was awarded a judgment for a permanent injunction against Rollins and Voss.

It was the language of the March 30, 2007, order signed by Floyd that had the attorneys squaring off in court recently.

Floyd's order stated that Rollins and Voss "shall not knowingly (or indirectly through a third party) contact, communicate, target, initiate or solicit any individual who is or was a customer of UCB and/or use any customer name, customer address, or contact information obtained from UCB as a result of Rollins' employment or association with UCB."

On Nov. 1, 2007, UCB attorneys filed a motion to enforce the judgment as well as to sanction Voss, Gibson and Posey.

"Although enjoined and restrained by the provisions of this court's March 30, 2007, Judgment, Voss, individually, along with Gibson and Posey in association with Voss, have engaged in conduct which clearly violates this court's Judgment," UCB attorney Bruce Partain wrote in the motion.

Partain wrote that by working together, the attorneys improperly and illegally targeted and solicited customers of UCB. The conduct, he wrote, has resulted in the UCB customers entering into agreements with Gibson, Posey and Voss for legal representation in legal actions against UCB.

The three attorneys responded with their own counter-motion for sanctions against Partain on Dec. 4, 2007.

Partain's motion for sanctions, they claimed, was frivolous, was filed for publicity and should be denied.

The counter motion and motion to dismiss argued that Gibson and Posey were not named in the judgment and therefore not subject to it. In addition, they argued that Voss "did not contact a single customer 'obtained from UCB or as a result of John

Motion_to_quash_hearing__dismiss____Gibson.pdf

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Rollins' employment with UCB' after the judgment was entered."

And even if Gibson and Posey were somehow bound by the judgment, they argued, then Floyd's plenary power over the Rollins case had expired anyway.

"Although the court can enforce a judgment after its plenary power has expired, it cannot consider a motion for sanctions," they argued.

But their most vehement argument against Partain's motion was in their belief that UCB was trying to restrict their right to practice law.

"If UCB is taking the position that it's a violation of the March 30, 2007, judgment every time Gibson, Voss or Posey sign up a new case against UCB, regardless of how the case was obtained, that is a violation of Rule 5.06 and is so broad an interpretation as to enjoin Posey and Gibson from activities that are a lawful and proper exercise of their rights," Posey wrote in a pro se motion to quash hearing and dismiss filed March 3.

"UCB and its lawyers are attempting to enforce an agreement, drafted by them, which restricts Gibson, Voss and Posey's right to practice law," he wrote.

Partain's motion for sanctions, the counter-motion stated, "was filed in bad faith in an effort to harass Gibson, Voss and Posey" and without any reasonable inquiry into the allegations.

Toups' motion to dismiss on behalf of Gibson concluded that UCB's "far reaching allegations" regarding Gibson's connection with Voss and Posey "are not supported by the evidence and are wholly without merit."

Floyd agreed to dismiss Gibson and Posey, but a hearing regarding Voss got underway immediately following the ruling and will continue on March 14.

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