

THE SUPREME COURT OF THE STATE OF NEVADA

Vinco Ventures, Inc.,

Petitioners,

v.

The Eighth Judicial District Court, in and
for the County of Clark,
State of Nevada, and Timothy C.
Williams, District Judge,

Respondents,

and

Theodore Farnsworth, Lisa King,
Roderick Vanderbilt, Erik Noble, and
Ross Miller,

Real parties in interest.

Case No.

District Case No. A-22-836404-B

Dept No. XVI

Electronically Filed
Sep 13 2022 10:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**Appendix Vol. III to Interlocutory Appeal as of Right or, in the Alternative,
Emergency Petition for Writ of Mandamus and/or Prohibition under NRAP
27(e) from the Eighth Judicial District Court
The Honorable Timothy C. Williams**

Relief requested under NRAP 27(e) by September 26, 2022

Joel E. Tasca, Esq.
Nevada Bar No. 14124
David E. Chavez, Esq.
Nevada Bar No. 15192
Andrew S. Clark, Esq.
Nevada Bar No. 14854
Joseph E. Dagher, Esq.
Nevada Bar No. 15204
BALLARD SPAHR LLP
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89135

ALPHABETICAL INDEX

Document	Filing Date	Volume and Bates Number(s)
Complaint for Injunctive Relief and Damages	August 3, 2022	I PA 000001-19
Defendant Theodore Farnsworth's Answer to Plaintiff's Complaint	August 29, 2022	II PA 000352-369
Defendants' Acceptance of Service of Summonses, Plaintiff's Complaint, Emergency Motion for Temporary Restraining Order and Preliminary Injunction, Ex Parte Order Granting Plaintiff's Emergency Motion	August 6, 2022	I PA 000106-108
Defendants Lisa King and Roderick Vanderbilt's Answer to Plaintiff's Complaint	August 29, 2022	II PA 000370-400
Errata to Plaintiff's Notice of Objection to August 17, 2022 Order	August 18, 2022	I PA 000119-122
Ex Parte Order Granting Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction	August 5, 2022	I PA 000100-105
Further Order of the Court Regarding Temporary Restraining Order and Preservation of Status Quo for Vinco Ventures, Inc.	August 19, 2022	I PA 000132-138
Notice of Entry of Further Order of the Court Regarding Temporary Restraining Order and Preservation of Status Quo for Vinco Ventures, Inc.	August 19, 2022	I PA 000139-147
Notice of Entry of Order Directing Plaintiff to Pay Payroll, Precluding Plaintiff from Terminating Employees, Setting Limitations on Expenditures, and Setting Limitations and Conditions Regarding Plaintiff's Board Meetings	August 18, 2022	I PA 000123-131

Notice of Objection to August 17, 2022 Order	August 18, 2022	I PA 000115-118
Notice of Objection to August 19, 2022 Order	August 19, 2022	I PA 000148-151
Opposition by Defendant Theodore Farnsworth to Plaintiff's Motion for Clarification of the Court's August 17, 2022 Order	September 6, 2022	III PA 000529-546
Opposition by Defendants Lisa King and Roderick Vanderbilt to Plaintiff's Motion for Clarification of the Court's August 17, 2022 Order	September 6, 2022	III PA 000547-718
Order Directing Plaintiff to Pay Payroll, Precluding Plaintiff from Terminating Employees, Setting Limitations on Expenditures, and Setting Limitations and Conditions Regarding Plaintiff's Board Meetings	August 17, 2022	I PA 000109-114
Order Granting Motion for Limited Expedited Discovery & Appointment of Special Master	September 1, 2022	II PA 000421-431
Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction	August 4, 2022	I PA 000020-34
Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction – Supporting Declaration by Counsel	August 4, 2022	I PA 000035-37
Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction – Supporting Declaration by John Colucci	August 4, 2022	I PA 000038-47
Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction – Supporting Exhibits to Declaration by John Colucci	August 4, 2022	I PA 000048-99
Plaintiff's Motion for Clarification of the Court's August 17, 2022 Order	August 31, 2022	II PA 000401-420

Plaintiff's Motion on Order Shortening Time to Modify Order Appointing Ross Miller and Lisa King as Co-CEOs	August 29, 2022	II PA 000306-II PA 000351
Recorder's Transcript of August 16, 2022 Hearing	August 25, 2022	I PA 000152- 185
Recorder's Transcript of August 17, 2022 Hearing	August 25, 2022	I PA 000186-II PA 000266
Recorder's Transcript of August 18, 2022 Hearing	August 25, 2022	II PA 000267- 305
Recorder's Transcript of August 31, 2022 Hearing	September 6, 2022	II PA 000432-III PA 000528

CERTIFICATE OF SERVICE

I hereby certify that this **Appendix to Interlocutory Appeal as of Right or, in the Alternative, Emergency Petition for Writ of Mandamus and/or Prohibition under NRAP 27(e)** was filed electronically with the Nevada Supreme Court on September 12, 2022. Case participants who are registered with Eflex will be served by the Eflex system and other parties, listed below, who are not registered with the Eflex will be served with a copy of the foregoing via hand delivery or U.S. Mail

Will Kemp, Esq.
Nathanael R. Rulis, Esq.
Madison P. Zornes-Vela, Esq.
KEMP JONES LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
(702)-385-6000
Attorneys for Defendants Theodore Farnsworth, Erik Noble

Theodore Parker, III, Esq.
PARKER, NELSON & ASSOCIATES, CHTD.
2460 Professional Court, Suite 200
Las Vegas, Nevada 89128
(702) 868-8000
Attorney for Defendants Lisa King, Roderick Vanderbilt

Amy L. Sugden, Esq.
SUGDEN LAW
9728 Gilespe Street
Las Vegas, Nevada 89183
(702) 625-3605
Attorney for Nonparty, Court-appointed Co-CEO Ross Miller

/s/ Adam Crawford

An employee of Ballard Spahr LLP

1 payments to Highway Data, which is a miss -- company that's owned by
2 Mr. Colucci.

3 And I don't know the amount of those as we sit here today.
4 But because of those two things, Mr. Vanderbilt as chairman called up,
5 Gibson Dunn and said, hey, can you do an independent -- can you do an
6 investigation to determine whether this guys independent. Gibson Dunn
7 said fine. They started it. They called Mr. Colucci.

8 And then, sometime thereafter, call a couple days, they
9 received a -- an email I think from Mr. Goldstein saying that what we're
10 going to do is unethical. And Gibson Dunn backed out. So there's
11 never an investigation done as to whether or not Mr. Colucci had
12 financial interest with the company.

13 After that occurred, they had these serious of directors
14 meetings that we've already talked about. I won't go back into that.

15 And but I will say that Mr. Colucci is the deciding vote on
16 all -- in most of these meetings. You know, in counsel's opposition they
17 talk about, well, it doesn't matter if Mr. Colucci was independent or not
18 because he wasn't the deciding vote on the terminations.

19 You know, that's not the issue today, Your Honor. Whether
20 it's *void ab initio* or not, you know, we'll get to that a later -- before you
21 determine that, you have to determine whether he's independent or not.

22 So what we're requesting is that someone -- an independent
23 counsel be appointed to conduct an investigation.

24 Now earlier, I suggested that perhaps Mr. Urda [phonetic] do
25 it. Since then, I've been educated this is kind of a specialty area. And

1 it's probably better to get someone from New York or maybe L.A., who's
2 got experience with SEC regs and this independent counsel situation.

3 And so, what I proposed to counsel we do is we put pick three
4 names. They pick three names. We flip a coin and then we knock one
5 out. They knock one out. We knock one out. They knock one out. Kind
6 of similar to what we do when we pick an arbitrator.

7 And that way, we can get someone who's pretty independent,
8 I would think, as the independent counsel.

9 And I'm willing to listen to any other procedure. I think the
10 Court would have a tough time just picking someone out from Nevada
11 Bar, because like I already said, it's kind of a specialty area.

12 So I think maybe having the parties propose candidates,
13 maybe even propose them to the Court. I'm not adverse to that, either.

14 But in their opposition, they also say, well, we should hire
15 Howard & Howard to do it. Well, Howard & Howard was the firm that did
16 what I call the whistleblowers white wash.

17 And you know, when we had all these whistleblower
18 complaints against the current CFO and CE -- and COO, Howard &
19 Howard wrote us a letter saying, well, can we review your client
20 tomorrow with your relationship with the whistleblower complaint.

21 And we said, well, we got hearing starting on Monday. So
22 tomorrow, Friday, is probably not good for us. And so, but we will set a
23 date immediately after the hearing's over.

24 And so instead of listening to our side of the story, they issued
25 a report on Sunday saying, oh, these whistleblower complaints have no

1 merit, which was kind of astounding I think when you issue a report
2 without hearing the whistleblower's -- any of the whistleblowers as I think
3 there are five or six of these, any of their concerns. Didn't listen to any
4 of them.

5 So that's who they proposed as independent counsel or
6 special counsel. I don't think that Howard & Howard would be
7 appropriate.

8 You know, I don't have anything against Howard & Howard.
9 We actually represent Howard & Howard, but I just don't think they'd be
10 appropriate because of their prior relationship on the whistleblower case.

11 But anyway, I think there is a need for a special counsel.
12 There's been no dispute whatsoever at any time that Chairman
13 Vanderbilt did not have the authority.

14 And remember, he's still the Chairman. He's on the Board of
15 directors. He's the Chairman as we sit here today.

16 There's been no dispute that he did not have the authority to
17 start an investigation. And I don't think there's been any
18 dispute -- there's any dispute that there should be some vetting here.

19 I mean, counsel wants to vett Mr. Miller with really no reason
20 that I can see, but in any event, he wants to do vetting and he is going to
21 do vetting of some sort.

22 I think where we've got Mr. Colucci here and we have two
23 known instances that both -- either one of which arguably violate the
24 independent status, two known ones right now, that I think we should
25 appoint a special counsel to do that. I see no reason not to.

1 And so, for that reason, and this is probably the oldest motion
2 on the docket because we've been talking about this from day one.

3 And so, Your Honor, we'd ask that the Court grant the motion
4 to appoint a special counsel. And that the procedure would be as I
5 indicated, the Court come up with its own procedures to determine who
6 that person would be.

7 THE COURT: Okay, thank you.

8 MR. KEMP: Oh, yeah, also, Your Honor, I forgot
9 there's -- there was a failure there -- it's not just the financial interests,
10 but on the questionnaire or his resume he lists that he has certain
11 position with certain companies.

12 We don't think those are accurate statements. And we also
13 think he's failed to disclose some interests, too. So it's not just the two
14 financial interests. It's those other subjects as well.

15 THE COURT: All right, sir?

16 MR. CLARK: Your Honor in response, I just want to make a
17 couple points. First, this idea that Mr. Colucci wasn't vetted at all is just
18 simply not true as Mr. Kemp admitted.

19 He did fill out the paperwork. It was the Board itself that
20 vetted him. And just like Mr. Kemp said kind of rushed him through
21 because they wanted him on the Board as an independent director.

22 As far as what -- whether it's a somehow voiding his vote ab
23 initio whether the NASDAQ rules or NRS 78 supports him invalidating
24 his votes because of his supposed dependence, none of those sources
25 support voiding his vote in any way.

1 In fact, even if we were going to accept the NASDAQ rules as
2 a basis for voiding Mr. Colucci's vote, the NASDAQ rules themselves
3 allow a cure -- I'm sorry, a curative provision, not a expulsion provision
4 for a Board member.

5 And so, even if we were going to accept that the NASDAQ
6 rule somehow would govern here, it simply would not apply to any of the
7 votes that he made before. And their reliance there is a red herring.

8 As for Howard & Howard, Your Honor, when the whistleblower
9 complaints came in, the timing of them was somewhat suspect after the
10 filing of this lawsuit. The first thing that they did, the first thing that Mr.
11 Colucci and the other Board members did was retain independent
12 counsel.

13 And this kind of assumption that Howard & Howard white
14 washed that investigation or didn't do -- didn't fulfill their own duty under
15 the Rules of Professional Conduct to the client, the company, not to Mr.
16 Colucci or excuse me to the Board not to Mr. Colucci has no evidentiary
17 support. There's no contention that Howard & Howard was in any way
18 partial here.

19 Similarly, this idea --

20 THE COURT: I have a question for you. And understand this
21 similar to Mr. Miller, I'm looking at this from the position that I think I
22 won't call it a presumption or inference, but if I do, lawyers will try to hold
23 that to me.

24 But my point is this. I'm looking at it through the lens that
25 hypothetically, Mr. Colucci is impotent, right? But here's my point. Don't

1 we have to go through some processes to make that determination?

2 And the reason why I bring that up is this. If they found out
3 that he was independent, I don't have to worry about any potential
4 penalties or anything like that, right? Do we discontinue the -- in that
5 position.

6 I only have to worry about that if there's some sort of negative
7 result from the investigation, right?

8 MR. CLARK: That's correct, Your Honor. If he's independent,
9 then this is baseless.

10 The problem is that's kind of the ultimate issue of the case.
11 And Defendants have said they wanted to conduct 30 depositions. I
12 mean, they're going to have a chance to explore this supposed
13 dependence or lack of independence of Mr. Colucci.

14 And to say that another firm that the Board hired to do that
15 and who is our proposal couldn't do that is frankly absurd.

16 The -- and really, the -- their excuse me, the fact that he could
17 be dependent or could independent I think at this point, Your Honor, the
18 presumption or the status quo is that he was independent and made
19 votes as an independent director. The Board found him to be that at the
20 very --

21 THE COURT: And I'm not necessarily disagreeing with it. I'm
22 just looking at this slightly differently in this regard. It's just like as it
23 pertained to Mr. Miller, there appears to be an issue here.

24 And I realize it wasn't a significant issue before the
25 appointment of Mr. Miller, but there's been allegations of lack of

1 independence, right?

2 And I said, okay, that's fine, but if you want to conduct some
3 discovery or some sort of investigation on that, that's fine.

4 Why shouldn't I say the same thing as it pertains to Mr.
5 Colucci, especially under the facts where there are NASDAQ rules in
6 place, right, as it pertains to independence?

7 And why would that not make sense? Why wouldn't that be
8 the appropriate way to handle this?

9 MR. CLARK: Well, I think Your Honor's already answered that
10 question by expediting discovery allowing the Defendants to hold that
11 positions and explore this.

12 If there is truly an issue, and I think we could re-visit whether a
13 special counsel needed to flush that out, but at this point, I think it would
14 be redundant to the discovery of the Defendants are already going to do.

15 And it kind of goes to the ultimate issue of their payment. And
16 to kind of refresh the Court's memory, when this was filed, there were no
17 claims from the Defendants. The Defendants' claims were brought on I
18 think a Monday in some counterclaims.

19 And so, when we opposed this motion, and when they
20 requested this relief, the only claims here were Vinco's claims.

21 And so, to kind of expand where and spend more of the
22 company's money on special counsel, when the Defendants are going to
23 be investigating that on their own, probably you know, with a finetooth
24 comb, the appointment of a third-party is just unnecessary.

25 And this contention that Mr. Kemp makes it somehow the

1 Board pressured Gibson Dunn into not conducting an investigation, I
2 mean, we're talking about Gibson Dunn. This is no slouch.

3 And so, if they did not see there was going to be an issue with
4 their investigation, they could have remained on. They chose not to. It
5 wasn't that they were forced from the situation.

6 And so, with that, Your Honor, the NASDAQ rules, while they
7 govern listing of the company shares, and while that's important, Mr.
8 Colucci was vetted at the beginning. The Board approved them. They
9 sat him. He made the votes and the votes were valid.

10 When we get to the July 24th hearing pursuant to July 24th
11 meeting, the Defendant simply lost that vote. And we make the point
12 that even if he took Mr. Colucci's vote out and you did find as the
13 Defendants asked that it was void, the vote was still 2 to 1. They still
14 lost.

15 THE COURT: Here's my next question. What if hypothetically
16 there was an independent investigation conducted prior to his
17 appointment on the Board and it was determined that he was not
18 independent, wouldn't that have impacted his ability to sit on the Board?

19 MR. CLARK: It could have, Your Honor, but if we're looking at
20 the NRS 78, I mean, where independence really comes in is what
21 committees you can sit on, where you can -- what your what you're able
22 to do relative to your own compensation.

23 But I haven't seen authority from Defendants other than these
24 NASDAQ rules that would support his removal and voiding all of his
25 votes just based simply on the allegations that he is not an independent.

1 THE COURT: All right. Anything else, sir?

2 MR. CLARK: No, I would just note, Your Honor, that it's
3 somewhat ironic that we need to select names -- six names. We're
4 going to flip a coin to appoint a special counsel to investigate Mr. Colucci
5 when we didn't get to do that with Mr. Miller, who will be making the
6 same choices as Mr. Colucci.

7 And so, given that it certainly has not seemed to go, we didn't
8 have the opportunity despite Mr. Connot's suggestion at the hearing. I
9 just find it a little bit inequitable here now that we're talking about Mr.
10 Colucci that this -- that we'll get a choice under this special counsel.

11 So with that, Your Honor, unless you have any other
12 questions?

13 THE COURT: Not at this time, sir, but thank you.

14 MR. PARKER: Your Honor, Mr. Kemp has ceded his rebuttal
15 to me so if I could. Your Honor, the -- I appreciate the question you
16 asked and the comments you made regarding the NASDAQ rules.

17 THE COURT: Right.

18 MR. PARKER: And as soon as you said that, it triggered the
19 difference in the requirement to vett and the importance of the difference
20 in the requirements to vett.

21 You've already given the Plaintiff an opportunity to vet Mr.
22 Miller as a CEO. The vetting we're speaking of concerns a person who's
23 not only a CEO, but a Board member. Supposedly, an independent
24 Board member.

25 NASDAQ Rule 5605 defines what a independent director is

1 and what precludes a person from being an independent director, one of
2 which is being an executive officer.

3 So as soon as Mr. Colucci became a CEO, he could no longer
4 qualify as an independent director pursuant to NASDAQ Rule 5605.

5 So, certainly, if Mr. Taska and Mr. Clark believe that there's
6 some real importance to vetting Mr. Miller, certainly they cannot contest
7 the higher level of scrutiny that's involved in vetting a CEO and a
8 supposed independent Board member.

9 That's what the NASDAQ Rule requires. And Mr. Clark hit
10 something that Mr. Rulis was whispering in my ears. All of his decisions,
11 all of Mr. Colucci's votes as a Board member, supposed independent
12 Board member as well as his votes for recommendations as a member
13 of the audit committee or the compensation committee are now all in
14 question, Your Honor.

15 And when Mr. Clark mentioned sitting on a committee, that
16 rung true. And it should resonate with the Court.

17 Not only his votes as a Board member, his decisions as a
18 CEO, but his decisions, his votes, his participation in decisions as a
19 audit committee and compensation committee member are all now
20 perhaps void, voidable, or *void ab initio*.

21 And so, Your Honor, I think Mr. Clark has helped support our
22 motion. And certainly, I don't believe that there's any way of refuting that
23 the Gibson Dunn investigation was not completed.

24 We provided the emails where the lawyers from Gibson Dunn
25 asked to set up time to meet with Mr. Colucci to speak with Mr. Colucci.

1 And he failed to participate in those discussions.

2 And then right after that, they terminated Gibson and Dunn. I
3 don't want to say terminate. They encouraged them to walk away from
4 the assignment based upon I would say less than supported ethical
5 claims by Mr. Goldstein.

6 So, at this point, Your Honor, we've asked for a vetting. And
7 by the way, Mr. Clark says that all that's before the Court in the form of
8 pleadings is Plaintiff's claims.

9 Well, that's not true. On Tuesday, we filed our answer to the
10 complaint, as well as our counterclaims. And we discussed in our
11 counterclaims the general allegations within our counterclaims Mr.
12 Colucci's activities and the ownership of Highway Data.

13 And I believe the amount that Mr. Kemp was looking for that
14 escaped him earlier was \$100,000 was paid by way of Acuity and we
15 believe through Highway Data.

16 The amount for his -- that was paid to i-Heart Radio, his wife
17 reported to him, was \$215,000. We know that he did not properly
18 disclose initially.

19 So there's more than enough reasons. And it certainly has
20 been a litany of paper, indicating that that vetting was not completed.

21 I would also inform the Court that the vetting that was done
22 initially Mr. McPhillin [phonetic] was done by Lucosky Brookman found to
23 be flawed later on.

24 And the initial vetting of Mr. Colucci was done by that very
25 same firm. So there's no confidence that should be given to that initial

1 investigation.

2 So additionally, Your Honor, the --

3 THE COURT: I mean, at the end of the day, this is what's
4 really kind of important at least in my view. I can't overlook the mandate
5 of rule and I'm talking about the NASDAQ Rules. And this is 5605A.2.

6 MR. PARKER: That's right.

7 THE COURT: And it specifically focuses on the confidence of
8 the investors, right? It's right there in the rule.

9 MR. PARKER: That's right.

10 THE COURT: And it goes further. It says, "It's important for
11 the investors to have confidence that individuals serving as independent
12 directors are not going to have a relationship with the listed company
13 that would impair their independence, period.

14 And it goes further. Since the Board has the responsibility to
15 make affirmative determination that no such relationship exists
16 even -- exists though the application of Rule 56(a)(2). And it goes
17 further. But my -- and it even lists out the types of relationships --

18 MR. PARKER: Correct.

19 THE COURT: -- and those types of things.

20 And so, my question is this. And has this been done as
21 required by NASDAQ is the first issue?

22 And secondly, I -- as a trial judge, I can't look -- overlook the
23 mandate of the NASDAQ regulations. Is that -- that's a two part
24 question.

25 MR. PARKER: And the answers, Your Honor, no, the vetting

1 had not been completed. We tried, and I say we, under Mr. Vanderbilt's
2 position as Chairman of the Board, he selected Gibson Dunn.

3 THE COURT: And as a further point, I mean, I don't think the
4 vetting should be necessarily, especially under this rule, an adversarial
5 process. And that's really an important point to make.

6 MR. PARKER: Yes.

7 THE COURT: I mean, I understand you're saying well, Judge,
8 I can take his deposition, but that's going to be slanted.

9 MR. PARKER: I agree 100 percent, Your Honor.

10 THE COURT: I mean --

11 MR. PARKER: Let me say right now we -- I'm not going to
12 speak out of turn for Mr. Kemp, but I believe --

13 THE COURT: I'm not saying -- I don't mean that in a negative
14 way, but that's an adversarial process.

15 MR. PARKER: It is.

16 THE COURT: You know, versus having an independent
17 investigation, but that's a slightly different animal.

18 MR. PARKER: And that's why we came to the Court.

19 THE COURT: And the reason why I bring that up, I would
20 hope that whoever was independent wouldn't slant --

21 MR. PARKER: Right.

22 THE COURT: -- arguments, right? Just present facts and
23 come to some sort of conclusion and make a determination as to
24 whether the mandate of Rule 5605 has been met.

25 MR. PARKER: Correct, Your Honor. That is 100 percent

1 correct. Not unlike when the Court appoints at times experts to bring an
2 opinion or recommendation to the Court separate and apart from the
3 litigants.

4 THE COURT: Right.

5 MR. PARKER: And so, that's what we're asking.

6 THE COURT: And sir, when I look at it through that lens, why
7 would I not appoint an independent investigation if one hasn't been
8 completed pursuant to the mandate of -- because this is what I would
9 think I would have. If there was an independent investigation then,
10 wouldn't I have findings?

11 MR. CLARK: Sure. Your Honor, you would get findings from
12 the independent counsel I'm sure. The -- all that I will say, Your Honor,
13 and on to --

14 THE COURT: Because I just want to make sure I'm correct
15 on that because I've never been involved in a Rule 5605 independence
16 investigation.

17 But I think if you appointed independent counsel or someone
18 to conduct that investigation, at the end of the day, there'd be a report
19 produced and generated that would look in the definitions and make a
20 determination as to whether or not there's been any violations of the
21 definition of independence pursuant to the SEC rules.

22 MR. CLARK: And Your Honor, we're -- as Vinco, we're
23 grateful for your support of the investors' confidence, the shareholders'
24 confidence.

25 But in respect, the NASDAQ rules have a way to police this

1 themselves. And that's through de-listing the stock, which happened.
2 And we've overcome that as a company.

3 And so, we can, you know, Your Honor says that you're
4 concerned and I understand that. But the NASDAQ can police that on
5 their own. They can de-list the company shares, which would be awful.

6 THE COURT: That's not a good thing.

7 MR. CLARK: That hasn't happened.

8 THE COURT: That's not a good thing to happen.

9 MR. CLARK: It has happened for this issue. And I only make
10 that point, Your Honor, because we're kind of importing the NASDAQ
11 rules and saying now under Nevada law, we have to do X.

12 And I think that we don't need to do that, especially in this
13 case, where you mentioned that the investigation would be slanted. Of
14 course, they're going to pull up everything they can on Mr. Colucci and
15 have everything that the special counsel could possibly want and more
16 I'm sure.

17 And to give the special counsel that if it ended up being
18 necessary, I wouldn't be --

19 THE COURT: Don't you think it would be fair to Mr. Colucci to
20 have an independent investigation?

21 MR. CLARK: Well, whether it's fair or not, Your Honor, at this
22 point, the -- where we stand is that they're going to do that. They're
23 going to have the adversarial process with him.

24 And so, if we could -- if we could say, yeah, let's do an
25 independent investigation, which would might be fair and easier for Mr.

1 Colucci, but he's also going to have to do the adversarial proceeding
2 and do the depositions that you've already allowed the Defendants to
3 do. I just think it's duplicating the work at this point for a company that's
4 already in a cash crisis. So --

5 THE COURT: But my question is this. Maybe the
6 independent investigator would come to a different conclusion or
7 argument than Mr. Parker or Mr. Kemp.

8 MR. CLARK: Sure.

9 THE COURT: And I'm looking at it from a -- of a position of
10 being fair to Mr. Colucci, right? Because if they're truly independent.

11 And just as important, too, I want it -- and I don't mind saying
12 this unless someone's learned in Las Vegas in conducting these types of
13 investigations, I think it would serve everyone best.

14 And I don't know if L.A., Chicago, New York are the best
15 places to go for that type of investigation, but based upon in the general
16 sense, I would probably think they would be because it would involve the
17 major economic centers of this country.

18 We have law firms that are -- that conduct this type of event.
19 Like Chicago, they have a couple of exchanges there. You know, and
20 I'm just trying to think.

21 And, of course, New York is where most of all the trading and
22 those types of things occur and so on, but I'm looking at it from a
23 fairness perspective.

24 MR. CLARK: But from a fairness perspective, Your Honor, we
25 did retain Howard & Howard to do some of these same investigations

1 into the --

2 THE COURT: Well --

3 MR. CLARK: -- the whistleblower complaint.

4 THE COURT: -- and Howard & Howard --

5 MR. CLARK: That wasn't enough for the Defendants.

6 THE COURT: -- were retained by -- I'm looking at it from a
7 purely independent perspective. I don't mind saying that, because that's
8 my question. Wouldn't that be fair? And you don't think it would be or
9 wouldn't be or?

10 MR. CLARK: No, I don't dispute, Your Honor, that an
11 independent investigation would be fairer or easier for Mr. Colucci to go
12 through.

13 What I'm saying is at this point, where we are in these
14 proceedings, it would duplicate what the Defendants already planning to
15 do. It would incur a greater cost for the company itself for an
16 investigation that he didn't evade really in the first place.

17 I mean, he wasn't independent. So that's my point, Your
18 Honor. And not --

19 THE COURT: I think it potentially could save time.

20 MR. PARKER: Absolutely.

21 THE COURT: Right? Because I mean, look at it from this
22 perspective. We don't know, but because I'm looking at I don't mind
23 saying it. I'm giving everybody presumption.

24 It's like counsel indicated before. I'm not accepting anybody's
25 arguments as far as who the bad guy or gal might be in this case. I'm

1 not doing that.

2 I'm letting the processes work. And I'm just wondering would
3 it be fairer to Mr. Colucci as far as an independent investigation?

4 And just as important, say hypothetically if this independent
5 investigator comes back and says, look, he's independent. He doesn't
6 meet the requirements, if he could say look, Judge, use this as a sword.

7 They don't need to talk to Mr. Colucci about this anymore
8 potentially. There's a lot of ways this works out, right? Or maybe it
9 limits the scope. I'm not sure, but I'm just thinking about what I perceive
10 as issues down the road.

11 MR. CLARK: And Your Honor, I think I've conveyed my point.
12 I think that --

13 THE COURT: No, I understand. I just wanted to offer that up.
14 I mean, anything else you want to add, sir?

15 MR. PARKER: Your Honor, I think you've hit every issue. I
16 agree with the Court's position.

17 THE COURT: I never have positions. I'm not a litigant. I
18 always have comments.

19 MR. PARKER: I appreciate the Court's comments.

20 THE COURT: Yes, and thoughts. And I share them with you
21 on the record because that's what I'm thinking. You know, and every
22 time and I always tee it up because you don't have to agree with me.
23 You can tell me, look, Judge, you're wrong and it's a lie. I have no
24 problem with that. I just want to make sure you're right.

25 Is there anything else?

1 MR. PARKER: Nothing further, Your Honor.

2 MR. CLARK: Not for us, Your Honor.

3 THE COURT: This is what I'm going to do. And as far as the
4 motion's concerned, last question, any idea as to cost?

5 MR. PARKER: Your Honor, my suspicion is it won't cost any
6 more than what Gibson and Dunn intend to spend or, you know, I don't
7 want to speak ill of Howard and their report, because they only
8 interviewed those who were being charged with the violation.

9 So plus they did it on a Sunday. I really don't know how
10 much -- I really don't know how much they spend on theirs, Your Honor,
11 but my suspicion is it won't be any more than what the -- Vinco intended
12 to spend originally.

13 MR. KEMP: Probably between 25 and 50.

14 MR. PARKER: Mr. Kemp is thinking somewhere between 25
15 and 50. I don't know if it will be that much or not, Your Honor, only
16 because I don't have experience with doing the NASDAQ Independent
17 evaluation, independent director evaluation, but given that there's
18 information already available, they have a good starting point I believe.

19 MR. KEMP: Yeah, and Your Honor, and that's based on very
20 premature conversations with opposing counsel. Mr. Rulis is 0 for 10 if
21 everyone agrees to it.

22 No, seriously though, Your Honor, I think 25 to 50's probably
23 what we're talking about here.

24 THE COURT: All right. Well, I'm going to grab the request
25 for -- and I feel as a trial court, I realize I'm not a federal court. I get that,

1 but I can't ignore federal rules and regulations. So they have an impact.

2 Just as important, too, and I don't mind saying this at the end
3 of the day, I actually think this is a fairer way to handle this, because
4 we're going to appoint someone that's learned, independent, no
5 relationship with the parties, that does this type of work pursuant to a
6 court order.

7 And as far as recommendations are concerned, when are they
8 coming back?

9 THE CLERK: In a couple days before you, Judge. We
10 could -- it's just a status check.

11 THE COURT: Status check.

12 THE CLERK: Then --

13 THE COURT: But we need them to come back in quicker
14 than this.

15 THE CLERK: Absolutely.

16 THE COURT: What -- and because you need to -- one of two
17 things we can handle it this way. You can either agree or you can
18 submit three names, assuming all three names or three firms are
19 acceptable, we can just arbitrarily decide which one it's going to be.

20 MR. KEMP: Judge, I'm happy to submit three names and give
21 them to counsel at the same time he gives me three names. And then
22 we can --

23 THE COURT: Yeah. I'd rather have you agree. But if you
24 can't, we'll just, you know, they're all I would anticipate learned and
25 experienced in this type of area. They have a history of being the type

1 of law firm that conducts these types of investigations.

2 And if you can't agree, I'll decide it for you, but I'm going to
3 look at it from this perspective. I would assume all names that would be
4 submitted would be more than competent enough to accomplish this
5 task, this investigatory task. So that's kind of how I look at that.

6 MR. PARKER: Maybe we'll agree to something. Pleasant
7 surprise, I think.

8 THE COURT: Yes, you're here next week on the OST, so we
9 should do this on 10/7, right?

10 MR. PARKER: Sounds great, Your Honor.

11 THE COURT: 1:30?

12 MR. PARKER: Perfect.

13 MR. KEMP: You said 10/7 at --

14 MR. PARKER: No, 8 -- 9/7.

15 THE COURT: 9/7. 9/7, right. Okay.

16 THE CLERK: It's next Wednesday.

17 THE COURT: Next Wednesday. Oh, okay, don't we have an
18 order expiring today?

19 MR. PARKER: Yeah, that's the one we -- you already granted
20 for us to continue the order, Your Honor.

21 THE COURT: Okay.

22 MR. PARKER: So we'll do an order confirming that, Your
23 Honor. We continue it for another 30 days.

24 THE COURT: We don't have a lot -- you know, I will admit my
25 Law Clerk's really good. Anyway, what about the 10 -- I think this -- we

1 have an October 5th hearing in light of the emails from Ray Camucci
2 [phonetic]. Is that moot?

3 MR. TASKA: Sorry, Your Honor, can you repeat that? I'm --

4 THE COURT: Yeah, we have the -- wasn't there an issue
5 regarding the email -- no, what was it? It was the -- they had already
6 produced them, right?

7 THE CLERK: This was in regards to SEC pass codes.

8 THE COURT: I'm sorry, SEC pass codes.

9 MR. PARKER: Yeah, I think that's been handled, Your Honor.
10 We submitted an opposition, an email showing that we had given those
11 pass codes. So.

12 THE COURT: Right.

13 MR. KEMP: And they haven't filed anything, Your Honor.

14 THE COURT: And that's currently set for 10/5, right?

15 MR. PARKER: It is, Your Honor.

16 THE COURT: Do we need to keep that on calendar or?

17 MR. PARKER: Mr. Taska?

18 MR. TASKA: No, I don't think so.

19 THE COURT: We'll keep it -- no, we'll keep it on. If you can
20 tell me next Wednesday.

21 MR. TASKA: Okay, that would be great, Your Honor.

22 THE COURT: We'll do that.

23 MR. TASKA: Can we go -- two more things, Your Honor. One
24 is I don't know that we agreed to Your Honor ruled that the order that's
25 expired today gets extended a month. I don't know that I heard that.

1 Maybe I missed it, but I think we agreed that the payroll issue --

2 THE COURT: Right.

3 MR. TASKA: -- that's set forth in the order would be
4 something that the three CEOs would take a crack at.

5 THE COURT: Right.

6 MR. TASKA: Correct?

7 THE COURT: Right, but here's my -- I mean, I don't know
8 about the timing of that issue, but here's my question. Do the three
9 CEOs have an opportunity to do it before the next payroll comes up?

10 MR. TASKA: My understanding is the three CEOs are
11 meeting every day.

12 THE COURT: Okay. All right.

13 MR. PARKER: Your Honor, it was my understanding that the
14 order would remain in place for another 30 days. The only issue that
15 was subject to modification of the order was the one motion that was
16 filed by Plaintiff to modify the appointing of Ross Miller and Lisa King,
17 which we've already discussed.

18 THE COURT: I dealt with that.

19 MR. PARKER: There was no other particular provision of your
20 order that was subject to the motion of today's hearing.

21 MR. TASKA: So I think this gets back into the thing that Mr.
22 Parker and I have duking it out all day about, which is procedurally how
23 does this work?

24 To me, the order is -- expires by its terms. And then, all these
25 issues are up for discussion. I think -- what Mr. Parker's saying is that

1 there's a presumption that that order continues on and that we have to
2 move to get relief from it, even though it expires by its terms.

3 THE COURT: Well, actually, and I don't think that's
4 necessarily correct, because my entire intent was to hold status checks
5 and I sent the order at a shorter time period, because we could come in
6 and discuss it at the status check.

7 MR. PARKER: Exactly.

8 THE COURT: It was never the intent to -- because what I
9 wanted to do was the exact opposite. I wanted to prevent you from
10 having to come down and file motions and those types of things
11 unnecessarily.

12 MR. TASKA: So the Court is ruling that the payroll has to be
13 made rather than letting the three CEOs decide?

14 THE COURT: What I think we'll do is this. And unless there's
15 a problem, I -- where are we at from a payroll perspective? Is this
16 another payroll time period? I mean, I don't know.

17 MR. PARKER: Every two weeks, Your Honor.

18 THE COURT: Every two weeks, right?

19 MR. PARKER: Plus the other vendor bills. And so, that's
20 why --

21 THE COURT: At the end of the day, this is what I want to do.
22 I don't want to get involved in those -- that decision making. I will say
23 this that I will extend it until Wednesday of next week. And then, it can
24 be in the hands of the CEOs or to take care of this.

25 MR. TASKA: Just so I understand. So you're saying that

1 payroll needs to be made between now and Wednesday of next week?

2 THE COURT: No, no, I don't know if it's due
3 now -- due -- only when it's due. I just want to make sure that I'm not
4 cutting off payroll hypothetically for tomorrow. Is payroll due tomorrow?

5 MR. TASKA: You know, I don't know. Do you know?

6 MR. CLARK: I don't know.

7 THE COURT: You see what I mean? I want to begin I want
8 to give --

9 MR. PARKER: Yes, Your Honor. Two weeks from the 19th.
10 So this Friday would be --

11 MS. SUGDEN: The 2nd.

12 THE COURT: Yeah, and my point is this. I don't want to have
13 people cut off of payroll tomorrow, but I want to give the Board, the
14 co-CEOs an opportunity to make those decisions. That's what I want to
15 do.

16 MR. TASKA: So, okay, but so I understand Your Honor's
17 ruling. It's the Court's directive rather than it's the three CEOs to decide
18 that payroll needs to be made this Friday?

19 THE COURT: This -- and then, we will -- my hope is we can
20 stop it next Wednesday and I can put it in the hands of the CEOs.
21 Because what I don't want to have happen is this. We've had problems
22 with meetings, right, and getting together, and issuing directives, and
23 those types of things.

24 MR. PARKER: Not from the CEOs. They're -- that was --

25 THE COURT: And I understand.

1 MR. PARKER: Yeah.

2 THE COURT: But I don't want any impediment. I want to give
3 them an opportunity to get past this next payroll period and put it in their
4 hands and let them conduct business for the company and exercise their
5 business judgment. That's what I want to do.

6 MR. PARKER: Sounds great, Your Honor.

7 MR. TASKA: All right, and the last thing, Your Honor,
8 respectfully --

9 THE COURT: Am I clear on that?

10 MR. TASKA: Understood, Your Honor.

11 THE COURT: Okay.

12 MR. TASKA: And the final thing on our list is just that we may
13 seek an emergency writ on one or more of the rulings.

14 THE COURT: Sir, and that's -- you got to understand. That's
15 to be expected. And that never impacts any decision I ever made. I
16 remember it's like one of the larger class action cases we had. It must
17 have ran up 50 writs, right?

18 And the Supreme Court kept sending it back down again. And
19 sometimes they entertain and accept them, but I've been around long
20 enough to understand that's part of the process.

21 I'm not saying I'm the last word. So that never offends me.
22 That never impacts my decision making. Don't worry about that
23 because at the end of the day, you have to do what's in the best interest
24 of your client. That's all that really matters.

25 MR. TASKA: And I appreciate Your Honor's --

1 THE COURT: Yeah.

2 MR. TASKA: -- understanding.

3 THE COURT: I have a very thick skin on that. I really do. I
4 mean, I just -- that's the process.

5 MR. TASKA: That makes --

6 THE COURT: If the Supreme Court or the Court Appeals say,
7 look, Judge you blew it on this, I will -- I'm a good soldier. I'll follow their
8 order.

9 MR. TASKA: And --

10 THE COURT: I will. I am.

11 MR. TASKA: -- in connection with that, Your Honor, we just to
12 get it on the record, and I think I know what Your Honor's ruling would
13 be, but we would ask for a -- I would orally move for a stay of all
14 proceedings in this case until the Supreme Court decides whether to
15 take our writ.

16 THE COURT: This is what I'll do, though. I'll deny that
17 without prejudice. And all I mean by that is this. From a fairness
18 perspective, you're free to file it -- whatever appropriate motion
19 regarding the stay at the district court level you want to file, but it would
20 be unfair to make that type of decision without being fully briefed.

21 MR. PARKER: Thank you, Your Honor.

22 MR. TASKA: Understood, Your Honor. Thank you.

23 THE COURT: Yeah, but you're free to do it. And I -- in fact,
24 I'll entertain an order shortening time. However, understand this. This is
25 a different issue. It won't be as short, but I'll shorten it. I'll make sure

1 they get enough time to file an opposition. I give them 14 days to file the
2 appropriate opposition.

3 But it won't be October or November. I would shorten it. And
4 sometimes, I do that on issues like this. And you know, it depends on
5 the complexity issues.

6 Certain things, we can get in much quicker. Like some of the
7 things we've done, but things that are going to be really -- issues that are
8 going to be really I would anticipate hotly contested, I want to make sure
9 we -- both sides have a full and fair opportunity to make the appropriate
10 written record. Understand that?

11 MR. PARKER: Understood.

12 MR. TASKA: Understood, Your Honor.

13 MR. PARKER: Thank you so much.

14 THE COURT: All right.

15 MR. TASKA: Thank you.

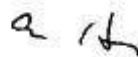
16 MR. PARKER: Thank you, Your Honor. Have a good holiday.

17 THE COURT: Have a good day. All right, everyone, enjoy
18 your day.

19 [Proceedings concluded at 4:14 p.m.]

20 * * * * *

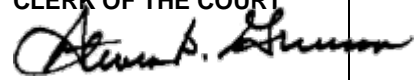
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 

24 _____
25 Chris Hwang
Court Reporter

TAB 24

TAB 24



Will Kemp, Esq. (#1205)
Nathanael R. Rulis, Esq. (#11259)
n.rulis@kempjones.com
Madison P. Zornes-Vela, Esq. (#13626)
m.zornes-vela@kempjones.com
KEMP JONES, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
T: (702) 385-6000
F: (702) 385-6001
Attorneys for Defendant
Theodore Farnsworth

DISTRICT COURT

CLARK COUNTY, NEVADA

VINCO VENTURES, INC.,

Plaintiff,

vs.

THEODORE FARNSWORTH, LISA
KING, RODERICK VANDERBILT, and
ERIK NOBLE,

Defendants.

CASE NO.: A-22-856404-B

DEPT. NO.: 16

**DEFENDANT'S OPPOSITION TO
PLAINTIFF VINCO VENTURES, INC.'S
MOTION FOR CLARIFICATION OF
THE COURT'S AUGUST 17, 2022 ORDER
PERTAINING TO MEETINGS OF THE
BOARD OF DIRECTORS**

Hearing Date: September 7, 2022

Hearing Time: 1:30 p.m.

Defendant Theodore Farnsworth ("Farnsworth" or "Defendant"), by and through his attorneys of record, the law firm of Kemp Jones, LLP, hereby submits his Opposition to Plaintiff Vinco Ventures, Inc.'s ("Vinco Ventures") Motion for Clarification of the Court's August 17, 2022 Order Pertaining to Meetings of the Board of Directors on Order Shortening Time.

///

///

///

1 This Opposition is made and based upon the Memorandum of Points and Authorities
2 submitted herewith, the exhibits attached hereto, the pleadings and papers on file herein, and any
3 oral argument permitted by the Court.

4 DATED this 6th day of September, 2022.

5 KEMP JONES, LLP

6 /s/ Madison Zornes-Vela

7 Will Kemp, Esq. (#1205)

8 Nathanael R. Rulis, Esq. (#11259)

9 Madison P. Zornes-Vela, Esq. (#13626)

3800 Howard Hughes Parkway, 17th Floor

Las Vegas, Nevada 89169

10 *Attorneys for Defendant*

11 *Theodore Farnsworth*

12 MEMORANDUM OF POINTS AND AUTHORITIES

13 I.

14 INTRODUCTION

15 Plaintiff's Motion purportedly seeks clarification on the Court's prior order regarding
16 Board meetings. Like Plaintiff's August 31, 2022 Motion to modify the Court's Order appointing
17 the three Co-CEO's, this motion is another unfounded attempt by Plaintiff to re-write history and
18 seek reconsideration of one of the Court's prior orders.

19 On August 17, 2022, this Court entered an Order, which, among other things, requires that
20 any meeting of the Board of the Directors be held only if: (1) unanimous consent by the Board
21 members to a meeting, with at least 48-hours' notice and an agenda accompanying the notice; or
22 (2) by order of the Court. The Order further provides that the Board members must not
23 unreasonably withhold their agreement to hold a board meeting and/or waive the 48-hours' notice
24 requirement.

25 The unanimous consent requirement for all Board meetings going forward was of
26 particular importance to Defendants because of the events that transpired in July and August 2022,
27
28

1 which led to the instant litigation and many of the issues raised herein. Following Gibson Dunn’s
2 aborted investigation and the issues it identified regarding Mr. Colucci’s independence, Mr.
3 Colucci and his Board allies effectuated a series of tumultuous Board meetings in an apparent
4 effort to remove current Company management and gain control over operations. Mr. Colucci
5 and his Board allies hijacked these meetings and crammed through numerous important decisions
6 without any prior notice let alone discussion on critical corporate governance issues.

7 To prevent these antics from continuing, and to assist the Court’s efforts to preserve the
8 status quo and protect Vinco Ventures’s ongoing operations, Defendants proposed the unanimous
9 consent requirement for all Board meetings going forward. At the hearing wherein this term was
10 discussed, counsel for Defendant Farnsworth made it clear that the intention of this provision was
11 to require unanimous consent from all Board members to hold Board meetings. This is the same
12 counsel who drafted and submitted the proposed order that the Court ultimately entered as the
13 August 17, 2022 Order. There is no dispute the Court entered Defendants’ proposed position on
14 this issue.

15 Despite the language of the August 17, 2022 Order and the unequivocal representations
16 by counsel at the hearing and throughout the parties’ negotiations on this issue, Plaintiff now
17 argues the unanimous consent requirement for Board meetings is simply Defendants’
18 “interpretation.” The Court must reject Plaintiff’s self-serving and contrived feigned ignorance.
19 Plaintiff further contends this Order is unworkable, offering three unfounded and speculative
20 reasons why. Because the Court’s 8/17/22 requires the Directors to not unreasonably withhold
21 their consent to a Board meeting and provides a Board meeting can be held pursuant to Court
22 order, Plaintiff’s arguments against the unanimous consent requirement are not persuasive.
23 Defendant respectfully requests the Court deny Plaintiff’s Motion and reaffirm the unanimous
24 consent requirement.

25 ///

26
27 ///

II.
RELEVANT FACTS

As this Court is aware, this action involves important corporate governance issues for Vinco Ventures and involves serious allegations regarding the actions and fitness of several Vinco Ventures directors, executives, and others involved in Vinco Ventures’s business operations.

On August 17, 2022, the Court entered an Order (1) Directing Vinco Ventures, Inc. to Pay All Payroll Amounts Due and Owing on August 19, 2022; (2) Precluding Vinco Ventures from Terminating Employees; (3) Setting Limitations on Expenditures; and (4) Setting Limitations and Conditions Regarding Vinco Ventures Board Meetings (“8/17/22 Order”).¹ The 8/17/22 Order requires unanimous consent for any Board meeting. *Id.* at ¶ 5. (“Plaintiff shall not hold any Board of Director meetings without 48 hours’ notice and an agenda must accompany the notice, absent unanimous agreement of the parties, which agreement will not be unreasonably withheld in the event of emergency, or order of the Court.”)

Unanimous consent for holding Board meetings moving forward was one of Defendants’ unwavering requirements during the parties’ negotiations underlying the 8/17/22 Order. This is because Mr. Colucci and his Board allies improperly utilized “Board meetings” to purportedly accomplish their hostile takeover. Between July 17, 2022 and July 24, 2022, “the Board” conducted a flurry of meetings wherein Colucci and his Board allies who joined his hostile takeover hijacked the meetings and crammed through numerous important decisions without any prior notice, let alone discussion on these issues. *See e.g.*, 8/15/22 Declaration of Roderick Vanderbilt at ¶¶ 15, 31-32; 8/15/22 Declaration of Lisa King at ¶¶ 13, 17, 19-20. Additional meetings occurred after the Court granted Plaintiff’s ex parte request for the now-dissolved Temporary Restraining Order, which precluded Defendants’ involvement.

¹ Notice of Entry of the 8/17/22 Order was filed on August 18, 2022. Because Plaintiff’s Motion refers to the August 17, 2022 Order, for the sake of consistency and clarity, Defendant will also refer to it as such.

At the continued hearing on August 17, 2022, after Plaintiff backed out of its previous agreement that no board meeting would be conducted without unanimous consent, the parties presented this as one of the remaining issues to the Court, explaining:

MR. KEMP: Your Honor, so 4 and 5 are the points of contention at this point. So 4, what we proposed is that **they wouldn't hold any board meetings unless there's 48 hours', written notice, AND there's unanimous agreement of the board members.** The parties agree to the board members.

And we agree that we would not withhold consent in the event of the emergency. And in the event that they really need a board meeting, we withhold consent, they have the right to come to Court and ask the Court to authorize the board meeting.

So that's the proposal I thought was agreed to, but I guess it's not now, but I think that's a reasonable decision because right now, it's 48 hours. And we just want to stop this thing where everyone – notices the board meeting.

Aug. 17, 2022 Recorder's Transcript of Hearing Plaintiff Vinco Ventures Inc.'s Emergency Motion for Temporary Restraining Order and Preliminary Injunction ("8/17 Trns"), 45:19-46:6 (emphasis added).

In response to this proposal, Vinco counsel said that there was a need for an emergency board meeting that very night because of the alleged Hudson Bay default notice. The Court then agreed to a Hudson Bay carve out:

THE COURT: All right. This is what I'm going to do. Number one, as far as paragraph 4 is concerned, they'll be a carve-out exactly like I indicated as it pertained to participation in the calling of the note

8/17 Trns, 73:20-24.

The Court signed Defendant Farnsworth's proposed Order, which was consistent with Mr. Kemp's and the Court's statements on this issue. *See* 8/17/22 Order.

Until an email from John Colucci on August 27, 2022, Plaintiff never advanced the inane argument that there was an additional "carve out" that would allow for calling board meetings for any reason by giving 48-hours-and-one-second (or more) notice. *See Exhibit 1.* As Defendant explains herein, a 48-hour-and-one-second carve out would basically gut paragraph 5 of the August 17 Order in its entirety and allow Colucci and his Board allies free reign to continue the obstreperous conduct that triggered this litigation.

III.
ARGUMENT

A. The August 17, 2022 Order Requires Unanimous Consent from All Board Members to Hold a Board Meeting.

Contrary to the Plaintiff's contrived position, the 8/17/22 Order orders that Vinco Ventures Board meetings can be held only if: (1) all Board members consent to the meeting, at least 48-hours' notice is provided, and an agenda accompanies the notice; or (2) by order of the Court. 8/17/22 Order at ¶ 5.

Defendants' proposed requirement for unanimous consent to hold Board meetings (which the Court adopted) was critical to Defendants because of Mr. Colucci and his Board allies' egregious and outright abuse of the Board meeting process to purport to effectuate their hostile takeover. This entire controversy started when Mr. Colucci became a board member less than three months ago in mid-June, and within three weeks, launched a scheme to disenfranchise two duly-elected board members (Lisa King and Roderick Vanderbilt), terminate the long-standing CEO of Vinco (Lisa King) and eliminate any involvement by Defendant Farnsworth (the individual who raised hundreds of millions of dollars in financing for the company). One unsavory tactic Mr. Colucci and the other two Board members involved in his scheme repeatedly employed during the hostile takeover was to schedule board meetings on quick notice, with no agenda, and then attempt to cram through critical votes to disassemble the company—*e.g.*, the vote to fire 80% of the work force, the vote to fire King as CEO, the vote to fire Farnsworth as co-CEO, and numerous other actions to seize control of Vinco Ventures.²

Given the egregious abuses to the board meeting process employed by Mr. Colucci and his Board member allies, Defendants unequivocally sought the requirement that all Board meetings be held with unanimous consent. Prior counsel for Plaintiff was keenly aware this was Defendants' position given that Defendants' counsel made their position clear on the record. 8/17

² Some of these illicit actions were taken at purported board meetings conducted when Defendants King and Vanderbilt were restrained from attending by the TRO Vinco obtained without notice and which has since been dissolved by the Court.

Trns at 45:19-46:6. There is no dispute Court signed and entered Defendant Farnsworth’s proposed order, which included the unanimous consent requirement. Even if paragraph 5 could have been drafted differently, it does not negate the intent and purpose of this provision, which was made clear at the August 17, 2022 hearing. While certain persons on Plaintiff’s Board may not like the 8/17/22 Order and want to again re-write history³, there is no legitimate dispute this Order requires unanimous Board consent to hold a Board meeting.

The argument that the Court intended to require unanimous consent for meetings noticed in 48 hours but did not intend its Order apply to meetings noticed in 48-hour-and-one-second is nonsensical and is a blatant attempt to pervert and/or violate the Court order. **The Vinco bylaws already require 48 hours’ notice for board meetings.** If the unanimity requirement imposed by the Court is limited to meetings called with less than 48 hours’ notice, it is meaningless because such meetings are already prohibited without unanimous consent (or waiver). The entire reason for the unanimity provision in the 8/17/22 Order was to prevent the Colucci-engineered chaos that the serial board meetings were inflicting.

To support its improper attempt to inappropriately seek what is effectively reconsideration of the Court’s Order, Plaintiff argues the unanimous consent requirement is “unworkable” because it purportedly allows any single Director to interfere with the other Directors’ ability to satisfy their fiduciary duties, “clashes” with paragraph 2 of the same Order, and will force the parties back to Court every time the Board need to make a decision. These unfounded and speculative arguments are not persuasive.

Plaintiff fails to explain how the unanimous consent requirement for meetings has any impact on a Director’s ability to “stay reasonably apprised of Company issues.” Mot. at 8:14-16. A board meeting is not the sole vessel by which a director can stay reasonably informed of Company issues. Regardless, while the 8/17/22 Order requires unanimous consent to hold a

³ See Plaintiff’s August 29, 2022 Motion (seeking to undo the Court’s order appointing Ross Miller and Lisa King as Co-CEO’s with John Colucci, leaving Mr. Colucci the sole CEO); see also Defendants’ Opposition, filed on August 20, 2022.

Board meeting, the Order also requires that the Board members must not unreasonably withhold their agreement to hold a board meeting and/or waive the 48-hours' notice requirement. 8/17/22 Order at ¶ 5. As Plaintiff also recognizes, the Court's August 19, 2022 Order further specified that "[t]he Board and Plaintiff's executives shall take all reasonable steps necessary to ensure Vinco Venture's ongoing business operations." 8/19/22 Order at ¶ 5. The 8/17/22 Order also allows the parties to seek a Court order requiring a Board meeting be held. 8/17/22 Order at ¶ 5. Hence, if any Director believes its ability to exercise his or her fiduciary duties is impacted by another Director's **unreasonable** refusal to provide consent to hold a Board meeting, Plaintiff can seek a Court order requiring a Board meeting. *Id.*

Plaintiff likewise fails to demonstrate how the unanimous consent requirement "clashes" with paragraph 2, which requires Board approval of any expenditure in excess of \$250,000. A Board meeting is not required to approve an expenditure as this can be handled via other means such as through written consent. If any expenditure approval cannot be done by written consent, then the Board can hold a Board meeting to discuss the same, for which no Board member can unreasonably withhold their consent. There is simply no inherent conflict between these directives.

Finally, and for the same reasons, the unanimous consent requirement does not "force the parties back to Court every time the Board need to make a decision." Again, because the 8/17/22 Order requires the Board member to not unreasonably withhold their consent to hold a Board meeting, Plaintiff's contention here is unfounded and speculative. In fact, the only reason the parties would repeatedly end up before this Court on this issue is if Mr. Colucci and his allies continue to try and use Board meetings as weapons to improperly promote their self-serving agenda.

The Court should deny Plaintiff's Motion. The unanimous consent requirement for Board meetings was clearly discussed and understood to be part of Defendant Farnsworth's proposed Order, which the Court entered as its own. To the extent the 8/17/22 Order requires "clarification", Plaintiff fails to demonstrate any legitimate reason the Court should reconsider the Order to remove the unanimous consent requirement for Board meetings.

IV.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that the Court deny Plaintiff's Motion. The Court's August 17, 2022 Order clearly requires unanimous consent from all Board member to hold a Board Meeting, and Plaintiff fails to demonstrate any reason the Court's Order requires clarification.

DATED this 6th day of September, 2022.

KEMP JONES, LLP

/s/ Madison Zornes-Vela
Will Kemp, Esq. (#1205)
Nathanael R. Rulis, Esq. (#11259)
Madison Zornes-Vela, Esq. (#13626)
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Attorneys for Defendant
Theodore Farnsworth

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September, 2022, I served a true and correct copy of the foregoing **DEFENDANT'S OPPOSITION TO PLAINTIFF VINCO VENTURES, INC.'S MOTION FOR CLARIFICATION OF THE COURT'S AUGUST 17, 2022 ORDER PERTAINING TO MEETINGS OF THE BOARD OF DIRECTORS** via the Eighth Judicial District Court's electronic service system on all parties on the Court's service list.

/s/ Ali Lott
An employee of Kemp Jones

Exhibit 1

From: Mike Distasio mike@chair.com 

Subject: Please see Monday Board meeting request attached

Date: August 26, 2022 at 5:22 PM

To: Elliot Goldstein goldsteinelchonon@gmail.com, Giovanni Colucci john@hwydata.com, Roderick Vanderbilt rodv1@msn.com, Lisa King Lking@vincoventures.com, Rod Vanderbilt rodvanderbiltvin@gmail.com, Giovanni Colucci john@hwydata.com

MD

Mike Distasio



Vinco - Board
Meetin...22).pdf

From: Elliot Goldstein elliott@whitedoveequities.com 

Subject: Board meeting request for Monday 6pm

Date: August 26, 2022 at 5:38 PM

To: Lisa King Lking@Vincovenures.com, Rod Vanderbilt rodvanderbiltvin@gmail.com, John Colucci jcoluccivincovenures@gmail.com, Mike Distasio mike@chair.com

EG

Please see attached board meeting request.

Have a fantastic weekend!

Elliot Goldstein, Partner


White Dove Equities

[908.216.1254](tel:908.216.1254)

Elliot@Whitedoveequities.com



Vinco - Board
Meetin...22).pdf

From: Lisa King Lking@Vincovenures.com 
Subject: Re: Please see Monday Board meeting request attached
Date: August 27, 2022 at 6:48 AM
To: Mike Distasio mike@chair.com
Cc: Elliot Goldstein goldsteinelchonon@gmail.com, Giovanni Colucci john@hwydata.com, Roderick Vanderbilt rodv1@msn.com, Rod Vanderbilt rodvanderbiltvin@gmail.com
Bcc: Nathanael Rulis n.rulis@kempjones.com, Teddy Parker tparker@pnalaw.net, Madison Zornes-Vela m.zornes-vela@kempjones.com, Ted Farnsworth Tedfarnsworth@gmail.com, Erik Noble enoble@zash.global

LK

Mike & Elliot,

I am not available for the requested Board meeting on Monday, August 29 and disagree that we need a Board meeting in order to accomplish the narrative for the special meeting. We can review a draft via email as soon as it becomes available. This review will involve all three co-CEOs as well.

As far as scheduling a Board meeting, the previous Court order said that it required unanimous Board approval (or Court order) to set a meeting. See paragraph 5 in the attached. As a result of not having unanimous approval to conduct a Board meeting, one shall not occur on Monday, August 29 and no motions or votes can be taken.

Additionally, I refuse to attend Vinco Ventures, Inc., a public company Board meeting on a private Zoom invite, as shown in Elliot's notice, unless required to do so by court order. Vinco Ventures, Inc. private Board meetings should be conducted on a corporate Zoom or Google Meets account.

Kind Regards,
Lisa King
P + (315)-420-8036

On Aug 26, 2022, at 5:21 PM, Mike Distasio <mike@chair.com> wrote:


Mike Distasio
<Vinco - Board Meeting Notice (Meeting Date August 29, 2022).pdf>



2022.08.17
Order...gs.pdf



Vinco - Board
Meetin...22).pdf

From: Giovanni Colucci john@hwydata.com 
Subject: Re: Please see Monday Board meeting request attached
Date: August 27, 2022 at 10:42 AM
To: Lisa King Lking@vincoventures.com
Cc: Mike Distasio mike@chair.com, Elliot Goldstein goldsteinelchonon@gmail.com, Roderick Vanderbilt Rodv1@msn.com, Rod Vanderbilt rodvanderbiltvin@gmail.com

GC

Lisa,

The unanimous vote in the court order is exclusively associated to calling a board meeting in less than 48 hours. To my understanding Elliot and Michael have given us more than enough time.

As far as your opinion on the matter. Here is the job duty of the board:

“The board is responsible for protecting shareholders' interests, establishing policies for management, oversight of the corporation or organization, and making decisions about important issues a company or organization faces.”

If you feel this is not an important issue of the company and choose not to show up I'm sure the board will understand.

Since you did not ask or suggest another date and time. Along with the fact you are telling the board what to do as a Interim CO-CEO. The board of this company is our boss essentially. If they want to have the meeting they will.

Thank you

On Aug 27, 2022, at 6:48 AM, Lisa King <Lking@vincoventures.com> wrote:

Mike & Elliot,

I am not available for the requested Board meeting on Monday, August 29 and disagree that we need a Board meeting in order to accomplish the narrative for the special meeting. We can review a draft via email as soon as it becomes available. This review will involve all three co-CEOs as well.

As far as scheduling a Board meeting, the previous Court order said that it required **unanimous** Board approval (or Court order) to set a meeting. See paragraph 5 in the attached. As a result of not having unanimous approval to conduct a Board meeting, one shall not occur on Monday, August 29 and no motions or votes can be taken.

Additionally, I refuse to attend Vinco Ventures, Inc., a public company Board meeting on a private Zoom invite, as shown in Elliot's notice, unless required to do so by court order. Vinco Ventures, Inc. private Board meetings should be conducted on a corporate Zoom or Google Meets account.


Kind Regards,
Lisa King
P + (315)-420-8036

On Aug 26, 2022, at 5:21 PM, Mike Distasio <mike@chair.com> wrote:

Mike Distasio
<Vinc - Board Meeting Notice (Meeting Date August 29, 2022).pdf>



PA 000543

From: Giovanni Colucci john@hwydata.com 
Subject: Re: Please see Monday Board meeting request attached
Date: August 27, 2022 at 11:52 AM
To: Lisa King Lking@vincoventures.com
Cc: Mike Distasio mike@chair.com, Elliot Goldstein goldsteinelchonon@gmail.com, Roderick Vanderbilt Rodv1@msn.com, Rod Vanderbilt rodvanderbiltvin@gmail.com

GC

Lisa,

I have had three firms explain.

Everyone of them felt the same way.

The context of this is being used correctly in the email I wrote and you are referencing to.

John Colucci

On Aug 27, 2022, at 11:33 AM, Lisa King <Lking@vincoventures.com> wrote:

John,

Your understanding of the court order is incorrect. Have your attorney explain it to you.

Lisa

On Aug 27, 2022, at 10:42 AM, Giovanni Colucci <john@hwydata.com> wrote:

Lisa,

The unanimous vote in the court order is exclusively associated to calling a board meeting in less than 48 hours. To my understanding Elliot and Michael have given us more than enough time.

As far as your opinion on the matter. Here is the job duty of the board:

“The board is responsible for protecting shareholders' interests, establishing policies for management, oversight of the corporation or organization, and making decisions about important issues a company or organization faces.”

If you feel this is not an important issue of the company and choose not to show up I'm sure the board will understand.

Since you did not ask or suggest another date and time. Along with the fact you are telling the board what to do as a Interim CO-CEO. The board of this company is our boss essentially. If they want to have the meeting they will.

Thank you

On Aug 27, 2022, at 6:48 AM, Lisa King <Lking@vincoventures.com> wrote:

Mike & Elliot,

I am not available for the requested Board meeting on Monday, August 29 and disagree that we need a Board meeting in order to accomplish the narrative for the special meeting. We can review a draft via email as soon as it becomes available. This review will involve all three co-CEOs as well.

As far as scheduling a Board meeting, the previous Court order said that it required unanimous Board approval (or Court order) to set a meeting. See paragraph 5 in the attached. As a result of not having unanimous approval to conduct a Board meeting, one shall not occur on Monday, August 29 and no motions or votes can be taken.

Additionally, I refuse to attend Vinco Ventures, Inc., a public company Board meeting on a private Zoom invite, as shown in Elliot's notice, unless required to do so by court order. Vinco Ventures, Inc. private Board meetings should be conducted on a corporate Zoom or Google Meets account.

Kind Regards,
Lisa King
P + (315)-420-8036

On Aug 26, 2022, at 5:21 PM, Mike Distasio <mike@chair.com> wrote:

Mike Distasio
<Vinco - Board Meeting Notice (Meeting Date August 29, 2022).pdf>



2022.08.17
Order...gs.pdf



Vinco - Board
Meetin...22).pdf

**NOTICE OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF VINCO
VENTURES, INC.**

Dated August 26, 2022 prior to 6:00 PM ET
Sent to each Board member via email

To the Directors of Vinco Ventures, Inc.

In accordance with the Bylaws of Vinco Ventures, Inc. (the “Company”), Michael DiStasio and Elliot Goldstein, two independent directors, are noticing a special meeting of the board of directors of the Company to be held on Monday, August 29, 2022, at 6:00 PM ET, via the zoom link below. Attendance at the board meeting shall include current directors, the Company’s co-CEOs, John Colucci, Lisa King and Ross Miller, and the Company’s CFO, Phil Jones.

The agenda of matters to be covered at this special meeting is below. If a director has any additional matters to be included on the agenda, such director suggest such item for inclusion on the agenda via email to the entire Board by 12 p.m. August 29, 2022.

The agenda for the meeting is as follows:

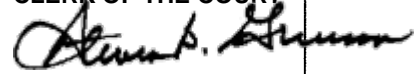
1. Narrative for the Special Meeting of the Stockholders scheduled for Tuesday, August 30, 2022.

Join Zoom Meeting

REDACTED

TAB 25

TAB 25



OPPM

THEODORE PARKER, III, ESQ.
Nevada Bar No. 4716

PARKER, NELSON & ASSOCIATES, CHTD.

2460 Professional Court, Suite 200

Las Vegas, Nevada 89128

Telephone: (702) 868-8000

Facsimile: (702) 868-8001

Email: tparker@pnalaw.net

Attorneys for Defendants,

Lisa King and Roderick Vanderbilt

DISTRICT COURT

CLARK COUNTY, NEVADA

VINCO VENTURES, INC.,

Plaintiff,

v.

THEODORE FARNSWORTH, LISA KING,
RODERICK VANDERBILT, and ERIK
NOBLE,

Defendants.

CASE NO.: A-22-856404-B

DEPT. NO.: XVI

**DEFENDANTS LISA KING AND
RODERICK VANDERBILT'S OPPOSITION
TO VINCO VENTURES, INC.'S MOTION
FOR CLARIFICATION OF THE COURT'S
AUGUST 17, 2022 ORDER PERTAINING TO
MEETINGS OF THE BOARD OF
DIRECTORS**

Hearing Date: September 7, 2022

Hearing Time: 1:30 p.m.

COMES NOW, Defendants, Lisa King ("King") and Roderick Vanderbilt ("Vanderbilt"), by and through their attorneys of record, Theodore Parker, III, Esq. of the law firm of Parker Nelson & Associates, and hereby submit their Opposition to Vinco Ventures, Inc.'s Motion for Clarification of the Court's August 17, 2022 Order Pertaining to Meetings of the Board of Directors.

///

///

///

///

///

///

///

///

1 This Opposition is made and based upon the pleadings and papers on file herein, the points &
2 authorities included herewith, the exhibits attached hereto, and such oral arguments the Court may
3 entertain at the time of the hearing of this matter.

4 DATED this 6th day of September, 2022.

5 PARKER, NELSON & ASSOCIATES, CHTD.

6 

7 THEODORE PARKER, III, ESQ.

8 Nevada Bar No. 4716

9 2460 Professional Court, Suite 200

10 Las Vegas, Nevada 89128

11 *Attorneys for Defendants*

12 *Lisa King & Roderick Vanderbilt*

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I.**

15 **STATEMENT OF FACTS**

16 Plaintiff's Motion is not unlike motions recently filed by Ballard Spahr, and similar if not
17 identical to arguments made by Mr. Tasca and Mr. Clark before this Court. The previous Motion,
18 heard August 31, 2022, to remove Lisa King as a CEO and Ross Miller as the Court-appointed co-
19 CEO, demonstrated that Mr. Tasca and Mr. Clark had not participated in the hearings that occurred on
20 August 16, 17 and 18 of 2022. Additionally, this Motion demonstrates that not only did Mr. Tasca
21 and Mr. Clark not attend those hearings, but have not read the transcripts of those hearings, and appear
willfully ignorant of arguments addressed at said hearings.

22 The Court Order, in pertinent part, reads:

23 5. Plaintiff shall not hold any Board of Directors meetings without 48 hours'
24 notice and an agenda must accompany the notice, absent unanimous consent of
25 the parties, which agreement will not be unreasonably withheld in the event of
an emergency, or order of the Court.

26 (See Notice of Entry of Order: (1) Directing Vinco Ventures, Inc. to Pay All Payroll Amounts Due
27 and Owing on August 19, 2022; (2) Precluding Vinco Ventures From Terminating Employees; (3)
28 Setting Limitations on Expenditures; and (4) Setting Limitations and Conditions Regarding Vinco

1 Ventures Board Meetings, filed on August 18, 2022, a true and correct copy attached hereto as Exhibit
2 “A”.) The Court arrived at this portion of the Order after extensive discussions related to the
3 governance of Vinco Ventures by way of the co-CEOs and Board of Directors.

4 During the oral arguments held on August 16, 2022, the Court agreed that it would put in the
5 Order, that there would be no Board meetings until the following Monday, August 22, 2022. *See*
6 Recorder’s Transcript of Hearing Plaintiff Vinco Ventures Inc.’s Emergency Motion for Temporary
7 Restraining Order and Preliminary Injunction, dated August 16, 2022, at p. 27:14-15, a true and correct
8 copy attached hereto as Exhibit “B”.) Mr. Connot further represented to the Court the following:

9 MR. CONNOT: Now that being said, Your Honor, there’s nothing planned and
10 we would not do anything but I mean-

11 THE COURT: Yeah.

12 MR. CONNOT: – depending on what circumstances arise in the world –

13 THE COURT: Yeah.

14 MR. CONNOT: -- we may request the Court either tomorrow afternoon or
15 Thursday to possibly schedule, you know, let a board meeting go forward if the
16 parties can’t otherwise agree.

17 Just because, you know, there’s so many things to come down the pike that
18 might require a board meeting, but there are no planned board meetings. We
19 would not hold any board meetings. The company would not unless there’s an
20 agreement of all the parties or Your Honor directs it so.

21 (See Exhibit “B” at p. 27:18-28:6.)

22 On August 17, 2022, further discussions and oral arguments ensued with regards to Board
23 Meetings. Mr. Connot made it clear his understanding of the proposed Order. Mr. Connot stated as
24 follows:

25 [C]ertainly, you know, without 48 hours’ notice, it would take the unanimous
26 consent of all five directors, so including Mr. Vanderbilt and Ms. King.

27 On less than 48 hours’ notice, it would require their consent or we’d have to
28 seek an Order of the Court in any event. But certainly upon 48 hours’ notice,
there should be able notice [sic]- properly noticed up under the bylaws and
statute a director meeting to transact business that’s properly before the
company.

///

///

1 (See Recorder's Transcript of Hearing Plaintiff Vinco Ventures, Inc.'s Emergency Motion for
2 Temporary Restraining Order and Preliminary Injunction, dated August 17, 2022, at p. 13:3-10, a true
3 and correct copy attached hereto as Exhibit "C".)

4 Plaintiff's new attorneys argue that unless there is a Board Meeting, business cannot be
5 conducted. This comment flies in the face of the events that occurred on August 17 and 18, 2022, in
6 front of this Honorable Court, especially when the Court accommodated a request from Plaintiff to
7 allow Theodore Farnsworth to help the Board Members resolve the Hudson Bay Default Notification.
8 During the August 17, 2022 oral arguments, Mr. Connot brought the Hudson Bay Default Notification
9 to the Court's attention and this matter was discussed extensively. The Court confirmed its carved-
10 out approach as reflected in the transcript. (See Exhibit "C" at p. 48:8-15.) The Court discussed its
11 Order dissolving the Plaintiff's original Temporary Restraining Order, within 24 hours, and indicated
12 that no action was to be taken by any of the parties until the Court reaches a decision as to the finding,
13 or a definition, of what maintaining the status quo will be.

14 Finally, Mr. Connot confirmed the successful discussions which included Mr. Farnsworth. Mr.
15 Connot made the following representations to the Court:

16 MR. CONNOT: Well, I don't know, but I think maybe a housekeeping matter
17 to begin with and the Court may have noticed the vacant seat here.

18 First of all, the company has successful discussions, unanimous consent last
19 night, was able to achieve a major restructuring of the financial issue that was
20 pressing, so that's the positive news.

21 There's an 8-K that's been filed. The issue has been resolved. I think most
22 everyone was up most, if not the entire night including Mr. Colucci.

23 (See Recorder's Transcript of Hearing Plaintiff Vinco Ventures Inc.'s Emergency Motion for
24 Temporary Restraining Order and Preliminary Injunction, dated August 18, 2022, at p. 4:3-11, a true
25 and correct copy attached hereto as Exhibit "D".)

26 Mr. Connot's account of what had occurred is a further demonstration of how the parties can
27 work together unanimously to resolve issues facing Vinco Ventures. The Court's Order requires no
28 clarification. The Court has fashioned an Order that maintains the status quo while allowing the parties
to bring situations that cannot be resolved among the parties back to the Court. If the Court did not

///

1 require unanimous consent, it would not have made itself available for issues between the parties
2 where unanimity could not be reached. (*See* Exhibit “C” at p. 66:23 – 68:2.)

3 Again, the Court’s current Order was a result of significant oral argument and considerable
4 attention to detail. Simply because Mr. Tasca claims current counsel does not appreciate the
5 parameters of the Order, does not justify what seems to be nothing more than a unsupported request
6 for modification. No clarification is needed; if unanimous consent cannot be achieved, then the parties
7 have to take their dispute to this Court.

8 II.

9 ARGUMENT

10 A. Legal Authorities

11 There are no new facts, and no intervening change in controlling law, to warrant the Court’s
12 reconsideration. The Nevada Supreme Court has held that there are limited circumstances in which a
13 party may request reconsideration of a court’s prior order. Reconsideration is appropriate only where
14 new facts are available that were not available at the time of the original ruling; there has been an
15 intervening change in controlling law; or the district court committed clear error or a manifest injustice.
16 *See Masonry & Tile Contractors v. Jolley, Urga & Wirth Ass’n*, 113 Nev. 737, 741, 941 P.2d 486, 489
17 (1997) (citing *Little Earth of United Tribes v. Department of Housing*, 807 F.2d 1433, 1441 (8th Cir.
18 1986); *see also Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (“Only in
19 very rare instances in which *new issues of fact or law* are raised supporting a ruling contrary to the
20 ruling already reached.”). There is no definition for what is “clearly erroneous” in the context of a
21 motion for reconsideration. In appellate cases, the “clearly erroneous” standard of review requires that
22 an appellate court affirm the lower court’s findings of fact unless it is “left with the definite and firm
23 conviction that a mistake has been committed.” *Little Earth of United Tribes, Inc. v. United States*
24 *Dep’t of Housing & Urban Dev.*, 807 F.2d 1433, 1442 (8th Cir. 1986); *see also Thomas v. Eighth Jud.*
25 *Dist. Ct.*, 402 P.3d 619, 624 (Nev. 2017) (a district court’s factual finding is clearly erroneous if it is
26 not based on substantial evidence).

27 Plaintiff claims to be merely seeking “clarification” of a prior Order, as opposed to
28 modification. Clarification occurs when a Court “provides definition to the parties’ obligations, but

1 leaves the parties' substantive rights unchanged. *See generally, Vaile v. Prsboll*, 128 Nev. 27, 33
2 (2012). If a motion seeks to alter the substantive rights of the parties, it is one for modification as
3 opposed to clarification. *Id.*

4 **B. There is No Need for Clarification and Modification is Unwarranted**

5 The August 17, 2022 Order is clear; to hold a Board Meeting, there must be unanimous consent
6 of the Board Members. No further clarification is needed as the words are plain and the meaning clear.
7 Counsel for Plaintiff fully understood that unanimous consent was required at the hearings on the
8 issue. As such, Plaintiff's request is properly denied.

9 Defendants suspect by way of the instant Motion, Plaintiff is actually seeking modification of
10 the August 17, 2022 Order, as opposed to clarification. Plaintiff is seeking to expand its substantive
11 rights under the Order by seeking authorization to hold Board Meetings without unanimous consent
12 of the Board of Directors, in violation of his Court's August 17, 2022 Order. In essence, Plaintiff seeks
13 a change of Defendants' and Plaintiff's substantive rights. As such, Plaintiff is not seeking
14 clarification, but rather is seeking modification of a prior Order.

15 There is no basis under NRCP 60, or any other statute, that allows Plaintiff to seek
16 reconsideration and/or modification of this Court's August 17, 2022 Order. No new evidence has been
17 presented and no new facts have come to light. No new arguments are included in the Motion.

18 Plaintiff's request, whether classified as one for clarification, or one for modification, is
19 properly denied. Plaintiff, based on its counsel's comments, fully understood the parameters of the
20 August 17, 2022 Order at the hearing. Plaintiff should not be allowed now to come to this Court and
21 play coy. Further, there is no valid basis for modification. As such, Plaintiff's Motion should be denied.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

CONCLUSION

Based upon the several days of oral arguments, the prior considerations of the Court, and foregoing, Defendants, Lisa King and Roderrick Vanderbilt, respectfully request this Court deny Vinco Ventures, Inc.'s Motion for Clarification of the Court's August 17, 2022 Order Pertaining to Meetings of the Board of Directors.

DATED this 6th day of September, 2022.

PARKER, NELSON & ASSOCIATES, CHTD.



THEODORE PARKER, III, ESQ.

Nevada Bar No. 4716
2460 Professional Court, Suite 200
Las Vegas, Nevada 89128
Attorneys for Defendants
Lisa King & Roderick Vanderbilt

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

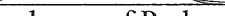
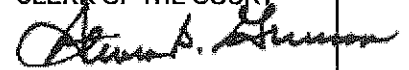

An employee of Parker, Nelson & Associates, Chtd.

EXHIBIT "A"



1 Will Kemp, Esq. (#1205)
2 Nathanael R. Rulis, Esq. (#11259)
3 n.rulis@kempjones.com
4 Madison P. Zornes-Vela, Esq. (#13626)
5 m.zornes-vela@kempjones.com
6 **KEMP JONES, LLP**
7 3800 Howard Hughes Parkway, 17th Floor
8 Las Vegas, Nevada 89169
9 T: (702) 385-6000
10 F: (702) 385-6001

11 **THEODORE PARKER, III, ESQ.**
12 Nevada Bar No. 4716
13 **PARKER NELSON & ASSOCIATES, CHTD.**
14 2460 Professional Court, Suite 200
15 Las Vegas, Nevada 89128
16 Telephone: (702) 868-8000
17 Facsimile: (702) 868-8001
18 Email: tparker@pnalaw.net

19 *Attorneys for Defendants*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 **VINCO VENTURES, INC.,**

23 Plaintiff,

24 vs.

25 **THEODORE FARNSWORTH, LISA**
26 **KING, RODERICK VANDERBILT, and**
27 **ERIK NOBLE,**

28 Defendants.

CASE NO.: A-22-856404-B
DEPT. NO.: 16

NOTICE OF ENTRY OF ORDER: (1) DIRECTING VINCO VENTURES, INC. TO PAY ALL PAYROLL AMOUNTS DUE AND OWING ON AUGUST 19, 2022; (2) PRECLUDING VINCO VENTURES FROM TERMINATING EMPLOYEES; (3) SETTING LIMITATIONS ON EXPENDITURES; AND (4) SETTING LIMITATIONS AND CONDITIONS REGARDING VINCO VENTURES BOARD MEETINGS

29 ///

30 ///

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kic@kempjones.com

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kempjones.com

1 TO: All parties herein; and
2 TO: Their respective counsel;
3 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order: (1)
4 Directing Vinco Ventures, Inc. to Pay All Payroll Amounts Due and Owing on August 19, 2022;
5 (2) Precluding Vinco Ventures from Terminating Employees; (3) Setting Limitations on
6 Expenditures; and (4) Setting Limitations and Conditions Regarding Vinco Ventures Board
7 Meetings was entered in the above-entitled matter on August 17th, 2022. A copy of said Order is
8 attached hereto.

9 Dated this 18th day of August, 2022.

11 KEMP JONES, LLP
12 /s/ Nathanael Rulis
13 Will Kemp, Esq. (#1205)
14 Nathanael R. Rulis, Esq. (#11259)
15 Madison P. Zornes-Vela, Esq. (#13626)
16 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Attorneys for Defendants
Theodore Farnsworth & Erik Noble

PARKER, NELSON & ASSOCIATES, CHTD.
/s/ Theodore Parker, III
THEODORE PARKER, III, ESQ.
Nevada Bar No. 4716
2460 Professional Court, Suite 200
Las Vegas, Nevada 89128
Attorneys for Defendants
Lisa King & Roderick Vanderbilt

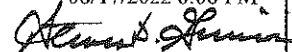
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15
16
17
18
19
20
21
22
23
24
25
26
27
28


CLERK OF THE COURT

1 Will Kemp, Esq. (#1205)
Nathanael R. Rulis, Esq. (#11259)
2 n.rulis@kempjones.com
Madison P. Zornes-Vela, Esq. (#13626)
3 m.zornes-vela@kempjones.com
4 **KEMP JONES, LLP**
3800 Howard Hughes Parkway, 17th Floor
5 Las Vegas, Nevada 89169
T: (702) 385-6000
6 F: (702) 385-6001

7 **THEODORE PARKER, III, ESQ.**
Nevada Bar No. 4716
8 **PARKER NELSON & ASSOCIATES, CHTD.**
2460 Professional Court, Suite 200
9 Las Vegas, Nevada 89128
10 Telephone: (702) 868-8000
Facsimile: (702) 868-8001
11 Email: tparker@pnalaw.net

12 *Attorneys for Defendants*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **VINCO VENTURES, INC.,**

16 Plaintiff,

17 vs.

18 **THEODORE FARNSWORTH, LISA**
20 **KING, RODERICK VANDERBILT, and**
21 **ERIK NOBLE,**

22 Defendants.

CASE NO.: A-22-856404-B
DEPT. NO.: 16

ORDER: (1) DIRECTING VINCO VENTURES, INC. TO PAY ALL PAYROLL AMOUNTS DUE AND OWING ON AUGUST 19, 2022; (2) PRECLUDING VINCO VENTURES FROM TERMINATING EMPLOYEES; (3) SETTING LIMITATIONS ON EXPENDITURES; AND (4) SETTING LIMITATIONS AND CONDITIONS REGARDING VINCO VENTURES BOARD MEETINGS

23
24
25
26
27 On August 16 and 17, 2022, Plaintiff Vinco Ventures, Inc.'s ("Vinco Ventures") Motion
28 for Temporary Restraining Order and Preliminary Injunction ("Motion") came on for hearing,

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kic@kempjones.com

KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kempjones.com

1 with Plaintiff represented by Mark J. Connot of Fox Rothschild LLP, Defendant Theodore
2 Farnsworth represented by Kemp Jones, LLP, and Defendants Lisa King and Roderick Vanderbilt
3 represented by Theodore Parker, III of Parker Nelson & Associates.

4 Based on the representations by the parties on the record, IT IS HEREBY ORDERED:

5 1. Plaintiff shall make all payroll payments scheduled for August 19, 2022 for all
6 payroll amounts for which Plaintiff is responsible, specifically including but not limited to payroll
7 for employees in the amount of approximately \$700,000 of the following:

8 a. Vinco Shared Services ("VSF") (with approximately 48 persons characterized as
9 Vinco employees (and includes Honey Badger Media LLC employees) and 14
10 persons characterized as Magnifi U employees) in the amount of approximately
11 \$425,000 (historically every two weeks) and the 27 persons characterized as
12 AdRizer employees in the amount of approximately \$85,000 (historically every
13 two weeks, but they are provided funds monthly, and Mind Tank LLC is a
14 subsidiary of AdRizer and shares that payment);

15 2. Plaintiff shall not make expenditures in excess of \$250,000.00 per transaction,
16 absent unanimous Board approval or order of the Court.

17 3. Plaintiff stipulates and agrees it will not terminate any employees of the following
18 entities on or before Monday, August 22, 2022:

- 19 a. Plaintiff Vinco Ventures, Inc.
20 b. Mind Tank LLC
21 c. AdRizer, LLC
22 d. Honey Badger Media LLC
23 e. Magnifi U, Inc.

24 4. Plaintiff shall pay ZVV \$710,000.00 for payroll on or before August 18, 2022 and
25 it will be treated as an advance on the loan.

26 5. Plaintiff shall not hold any Board of Director meetings without 48 hours' notice
27 and an agenda must accompany the notice, absent unanimous agreement of the parties, which
28 agreement will not be unreasonably withheld in the event of emergency, or order of the Court.

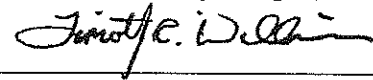
KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kempjones.com

1 The parties stipulate and agree religious holidays will be accommodated. This shall not apply to
2 Board meetings regarding the Hudson Bay Note and/or any Notice of Default of the Hudson Bay
3 Note.

4 6. This order will be in effect for 14 days and, over Plaintiff's objection, the
5 Temporary Restraining Order previously entered by this Court will be dissolved within 24 hours
6 and provided no action is taken by any of the Parties until further notice and order by this Court
7 regarding preservation of the status quo moving forward.

8 IT IS SO ORDERED.
9

Dated this 17th day of August, 2022



FFA 1DD 35DB 3D47
Timothy C. Williams
District Court Judge

JM

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Vinco Ventures, Inc., Plaintiff(s) | CASE NO: A-22-856404-B
7 vs. | DEPT. NO. Department 16
8 Theodore Farnsworth,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
14 recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/17/2022

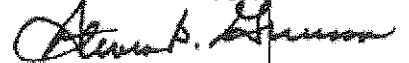
16 Eloisa Nunez	enunez@pnalaw.net
17 Patricia Stoppard	p.stoppard@kempjones.com
18 Nathanael Rulis	n.rulis@kempjones.com
19 Theodore Parker III	tparker@pnalaw.net
20 Mahogany Turfley	mturfley@pnalaw.net
21 Alison Lott	a.lott@kempjones.com
22 Pamela Montgomery	p.montgomery@kempjones.com
23 Mark Connot	mconnot@foxrothschild.com
24 Nicole McLeod	n.mcleod@kempjones.com
25 Doreen Loffredo	dloffredo@foxrothschild.com
26 Staci Ibarra	sibarra@pnalaw.net

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Madison Zornes-Vela

m.zornes-vela@kempjones.com

EXHIBIT "B"



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 VINCO VENTURES, INC.,

9 Plaintiff,

10 vs.

11 THEODORE FARNSWORTH, et
12 al,

13 Defendants.

CASE#: A-22-856404-B

DEPT. XVI

14 BEFORE THE HONORABLE TIMOTHY C. WILLIAMS, DISTRICT COURT
15 JUDGE

16 TUESDAY, AUGUST 16, 2022

17 **RECORDER'S TRANSCRIPT OF HEARING**
18 **PLAINTIFF VINCO VENTURES INC.'S EMERGENCY MOTION FOR**
19 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY**
20 **INJUNCTION**

21 APPEARANCES:

22 For the Plaintiff:

MARK CONNOT, ESQ.

23 For the Defendant:
24 (Theodore Farnsworth)

WILLIAM S. KEMP, ESQ.
NATHANIEL R. RULIS, ESQ.
MADISON ZORNES-VELA,
ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (continued):

For the Defendant:
(Lisa King and Roderick Vanderbilt)

THEODORE PARKER, III, ESQ

Also Appearing:

ADELE HOGAN, ESQ.
LISA KING
THEODORE FARNSWORTH
RODERICK VANDERBILT
ERIK NOBLE [BlueJeans]

RECORDED BY: MARIA GARIBAY, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, August 16, 2022

2
3 [Case called at 12:00 p.m.]

4 THE COURT RECORDER: We're on the record.

5 THE COURT: All right, thank you, ma'am.

6 All right, let's go ahead and set forth our appearances for the
7 record.

8 MR. CONNOT: Good morning, for the few minutes we have
9 left this morning, Your Honor, Mark Connot appearing on behalf of Vinco
10 Ventures.

11 Also present is John Colucci, the interim CEO and Adele
12 Hogan, who we're in the process of submitting a pro hac, but she's an
13 attorney as well, but not pro hac'd in yet.

14 THE COURT: And good morning.

15 MR. KEMP: Your Honor, Will Kemp from the Kemp Jones
16 appearing on behalf of Mr. Farnsworth.

17 THE COURT: All right.

18 MR. PARKER: Good morning, Your Honor, Theodore Parker
19 on behalf of Lisa King and Rod Vanderbilt.

20 MR. RULIS: Good morning, Your Honor, Nate Rulis from
21 Kemp Jones on behalf of Mr. Farnsworth.

22 MS. ZORNES-VELA: Good morning, Your Honor, Madison
23 Zornes-Vela on behalf of Mr. Farnsworth and Mr. Noble.

24 THE COURT: All right.

25 MR. PARKER: Your Honor, I would be remiss if I didn't inform

1 the Court that we actually have Mr. Vanderbilt here. Far right, Ms. King
2 who just stood up next to him. And on behalf of Will, we also have Ted
3 Farnsworth as well.

4 THE COURT: All right, and I guess before we started, I do
5 know this. We got a reply late -- I mean, I'm sorry an Opposition late
6 yesterday.

7 What impact does that have on the Plaintiff as far as their
8 motion's concerned? Do they want to file a reply or what? I mean,
9 I -- again, I don't mind saying this, there were a lot of factual issues
10 being raised, right?

11 For example, one of the issues I was thinking about and it's
12 my understanding it was alleged that a similar motion was filed in --

13 MR. CONNOT: New York.

14 THE COURT: -- in New York. New York State Court. What
15 impact does that have? And I did take a look. I realized this is a
16 Nevada corporation, right, from what I can gather and so, on.

17 I mean, those are things I thought about, but just as important,
18 there are a lot of facts here.

19 And I don't mind telling you because I thought about this even
20 before I stepped on the bench today. I was thinking and you can correct
21 me if I'm wrong or not, there's a probability that we should probably have
22 a separate session for this. Does that make sense? Just by yourself.

23 MR. CONNOT: That makes sense, Your Honor. I think it's --

24 THE COURT: And I'm not -- I'm not talking about kicking the
25 can down the road because --

1 MR. CONNOT: No, that's --
2 THE COURT: -- somebody gave me a date.
3 THE CLERK: I can find one, Judge.
4 THE COURT: No, no, didn't they say next Wednesday?
5 MR. CONNOT: The 23rd, there is currently a shareholder
6 meeting scheduled for next Tuesday.
7 THE COURT: And when is that?
8 MR. CONNOT: That's next Tuesday.
9 THE COURT: Is that next Tuesday?
10 MR. CONNOT: Yes.
11 THE COURT: Okay.
12 MR. CONNOT: A week from today, Your Honor. And my
13 understanding is and Ms. Hogan can correct me if I'm wrong, but the
14 maximum that could be extended to I believe is the 30th of August. Yes,
15 it could be because of statutory requirements, they could extend that to
16 August 30th at the latest.
17 One of the -- and I don't -- I'm not intending to get into the
18 merits or argue, but to give the Court the context and solely for the
19 context. I mean, because it's a publicly traded company, there are
20 some, you know, significant issues out there with --
21 THE COURT: No, I understand.
22 MR. CONNOT: NASDAQ.
23 THE COURT: Yeah.
24 MR. CONNOT: And all those sorts of things, too, that also
25 have a sense of urgency as well, Your Honor.

1 THE COURT: And this was -- I don't mind telling you this
2 because I talked to my Judicial Executive Assistant before entering the
3 bench this morning. And I was thinking Wednesday afternoon of next
4 week.

5 MR. KEMP: Judge, the only issue I would have with that is
6 payroll is to be made this Friday. We have been informed and believe
7 that that they do not intend to pay approximately 80 percent of the
8 workforce, that they're going to discharge them.

9 And I think that would disrupt the status quo completely. And
10 so, if counsel would represent that the payroll is going to made until such
11 time as we can move forward, I don't have a problem.

12 But if he's going to continue with his plan to fire 80 percent of
13 the workforce. And just elaborate a bit, we bought one company for 125
14 million on February 21st. We bought another one for 38 million on
15 February 22nd cash, cash sales.

16 And they're going to fire all the employees of these companies
17 that we just purchased? I -- you know, I would think that the status quo
18 would require that at a minimum, we do something to preserve these
19 employees' jobs so that when we come back here next week, there's
20 nothing left to argue about.

21 MR. CONNOT: Part of the challenge there, Your Honor, is
22 there is a -- reduction in force, a RIF plan, A.

23 B, yesterday, the company received because of the issues we
24 had with being unable to do the SEC filings, the NASDAQ de-listing and
25 the like, which fortunately just today finally got done after seven trading

1 days of being suspended from NASDAQ, we believe, you know, due to
2 the Defendant's conduct, but that -- short of that is there are significant
3 issues out there.

4 And yesterday, we received a notice of default from the really
5 only creditor out there, calling a \$80 million note that they can sweep the
6 account also with a -- they served interventive default with a \$16 million
7 dollar penalty.

8 There's \$96 million at stake. And if they proceed with that,
9 they're going to sweep \$80 million out of our bank account. You know,
10 they don't even need judicial enforcement to accomplish that.

11 So I think that that's a significant issue that's out there. I
12 mean, certainly willing to have some sort of discussion about some of
13 this, but I think -- and if we're going to preserve status quo, I think we
14 also have to have, you know, Defendants comply with the existing TRO,
15 which you know, which we set forth in the separate motion of the
16 emergency motion that was submitted yesterday.

17 So I think there are some issues there that, you know, and
18 there's a timing perspective, you know, with being able to access certain
19 things and the compliance with the existing TRO order.

20 MR. KEMP: Judge, he hasn't said a word about whether he's
21 going to fire all these employees on Friday or not. And so, we pay -- and
22 I would preface this by saying that before these companies were
23 purchased, they got fairness opinions on each one of them that indicated
24 that they're worth more than what they were paid for.

25 So we're going to allow this person who's been involved with

1 the company for eight weeks to basically gut the entire company by firing
2 these people?

3 I'm informed that the payroll's approximately 700,000 for each
4 two-week pay period. And I would submit that at a minimum, we should
5 have an order that they fund the payroll and that, you know, Your Honor,
6 these are the most valuable assets we have. These are the key
7 employees for the companies that we pay this kind of money for.

8 And we're informed that the bank is requesting that the -- all
9 five directors sign off on any kind of authorization for expenditures from
10 the bank.

11 And of course, we can't do that because they went and got a
12 restraining order without notice, which is, you know, in and of itself was
13 improper given that we already had the New York hearing and they
14 knew exactly who the counsel were, the -- easy to contact people.

15 The [indiscernible], we can't do anything as the independent.
16 We can't do anything as directors to help this situation because we're
17 presently restrained.

18 Because as soon as we try to help the situation, they're going
19 to come in and what they've done file a motion for contempt of court.

20 So my concern, as I've already indicated, that these
21 employees should be paid on Friday. And today's Tuesday. It's -- and
22 these employees are in multiple different states, Your Honor. It's
23 not -- it's not --

24 THE COURT: No, I get it. We have employees in multiple
25 states. We might have 150-plus listening by BlueJeans.

1 MR. KEMP: I think you have more than that, Your Honor,
2 because I've been informed that someone's put this on Twitter. And
3 there's a Twitter livestream now. And so, you probably have thousands
4 watching this.

5 THE COURT: Right.

6 MR. KEMP: This is very prominent public company, Your
7 Honor.

8 THE COURT: And here's my point. We're asking for a lot of
9 relief and it's like a rush to an ultimate decision. And then I have a -- I
10 have an ongoing concern and there's a lot of competing interests.

11 What I don't mind what really prompted me, I remember
12 reading, reviewing it last night, and why did the New York Court deny the
13 TRO?

14 MR. PARKER: Your Honor, can I address that quickly? I'm
15 surprised that Mr. Connot started his argument by saying he was not
16 going to argue the merits and then he dove right into it, but I will suggest
17 to the Court --

18 THE COURT: I mean, that was a big --

19 MR. PARKER: I agree, Your Honor.

20 THE COURT: That was a big, red flag. I mean, with get -- I
21 mean, you know, from a procedural posture, I mean, I don't know much
22 about New York. And I don't know if they follow Rule 65 like we do. I'm
23 not familiar with their rules.

24 MR. PARKER: Okay.

25 THE COURT: And they might do things slightly differently.

1 And do they grant a TROs like we do here ex parte? I mean, I don't
2 know.

3 MR. PARKER: Let me address that quickly, Your Honor,
4 because this is something that I've heard you say to many litigators,
5 many practitioners. You often referred us back to the Rules of
6 Professional Conduct.

7 THE COURT: Right.

8 MR. PARKER: Rule 3.3 Nevada Rules of Professional
9 Conduct says candor towards the tribunal. You're familiar with it.

10 3.3(d) says in an ex parte proceeding, a lawyer shall inform
11 the tribunal of all material facts known to the lawyer that will enable the
12 tribunal to make an informed decision.

13 I cannot see for the life of me why Mr. Connot, Mr. Colucci, or
14 whomever they were working with would not inform this Court when it
15 presented this motion, the TRO, of the decision of the New York
16 Supreme Court and in particular page 2, Your Honor. If you were to look
17 at Exhibit 5 of our Opposition, Your Honor, which is the last document to
18 be attached.

19 THE COURT: Just pull it up.

20 MR. PARKER: Very last couple pages of the Opposition. And
21 what it should say Exhibit E and it's Exhibit E to the motion.

22 THE COURT: Right.

23 MR. PARKER: And the second to last page, page 3, 3 of 4, is
24 the order that Mr. Colucci and his New York attorney wanted the judge
25 to sign.

1 And you can see that every item here, the items that they
2 asked this very Court to enforce were struck by the New York Supreme
3 Court justice.

4 And then, you turn around after being denied attempting to
5 forum shop and he asked Your Honor to grant a TRO without providing
6 you with that information.

7 Certainly, this is something that that court should have
8 provided you in accordance with Nevada Rule of Professional Conduct
9 3.3(d) because Your Honor, as well as every other judge in this 8th
10 Judicial District Court depends on lawyers actually complying with our
11 rules of ethical conduct or professional conduct.

12 The other thing I would point out, Your Honor, under 3.34 of
13 the Nevada Rules of Professional Conduct is fairness to the other side
14 or to opposing counsel or party.

15 There are items that we mentioned in our brief that we don't
16 have because they have not provided them. For example, the minutes
17 of certain meetings that we referenced, meetings that were done without
18 the appropriate notice -- notification without the participation of Mr. Rod
19 Vanderbilt as the Chair of the Board or Ms. Lisa King.

20 And so, they have secured a TRO that they should not have in
21 violation of our Nevada rules and this TRO shouldn't stand.

22 Your Honor has been gracious enough to extend an
23 opportunity for the Plaintiffs to file some form of reply, but they're not
24 entitled to file a reply under these circumstances.

25 We put together after not receiving notice an Opposition which

1 took a tremendous amount of effort and time not only by our two law
2 firms, but also by our clients just to get to where we are.

3 And now we find that they duped this Court. They've done so
4 at the detriment potentially now of 80 percent of the workforce for Vinco
5 Ventures.

6 They're doing it to the detriment financially of the -- not only
7 the employees, but of course, Vinco Ventures itself and to those who
8 worked so hard to put it together.

9 They don't deserve any additional time, but what I think
10 we -- the Court should do if I were to be somewhat presumptuous, if we
11 could have a hearing tomorrow, Thursday, something to make sure that
12 we can pay these employees, these loyal employees, especially given
13 the fact that Mr. Colucci's already filed -- fired the chief Human
14 Resources person:

15 Mr. Noble, our chief security officer's been fired. All in
16 retaliation because we're simply trying to get Mr. Colucci properly vetted
17 in accordance with NASDAQ requirements.

18 This can't be -- this TRO can't be allowed to main -- be --
19 continue in force. And we ask the Court for the as soon as possible date
20 to really get into the merits of our relative positions.

21 MR. CONNOT: Your Honor, if I may address these. In
22 particular, the attacks on the ethics. We advised the Court of what the
23 situation is.

24 The Defendants now are complaining that we came to Nevada
25 when what they did in New York and when they say all of this work, a lot

1 of this stuff is a repeat of what they filed in New York. Okay, so they
2 filed that three weeks ago.

3 The Court didn't deny it. The Court set it for an order to show
4 cause hearing.

5 But what they don't tell the Court, what's not being told the
6 Court here today is a position they took in that New York litigation and
7 their Opposition.

8 Their Opposition stated that Nevada had exclusive jurisdiction
9 according to the articles of organization of this company.

10 And that's what the articles do provide. That's what we
11 provided. We advised the Court in our papers that there was a New
12 York proceeding that they had raised this issue and because Nevada
13 had exclusive jurisdiction under the corporate doctrines --

14 THE COURT: No, no, no, I understand that.

15 MR. CONNOT: That we had --

16 THE COURT: There's a lot of issues going on here.

17 MR. CONNOT: So I mean, it's -- but I mean, to sit here and
18 impugn the ethics of this --

19 THE COURT: You know what?

20 MR. CONNOT: -- seems like definitely a bridge too far.

21 THE COURT: And sir, you have to understand this one thing.
22 When it comes to lawyers and arguing and things like that, I kind of
23 listen, but then I get -- I know, that doesn't bother me, sir. It had no
24 impact on me.

25 MR. CONNOT: It's the advocacy in me, Your Honor.

1 THE COURT: I understand, but I'm looking at this from a
2 problem solving perspective, because we need to get this resolved one
3 way or another ASAP.

4 MR. CONNOT: Yes, I agree.

5 THE COURT: You know, but this is important, too.

6 MR. CONNOT: Right.

7 THE COURT: I try not to fly by the seat of my pants.

8 MR. CONNOT: Uh-huh.

9 THE COURT: I never have. You ask any lawyer that's been
10 involved in cases involving complex litigation, that's one thing I don't do.
11 And because I try to make sure the best -- to the best of my abilities. I
12 understand what the appropriate facts will be and also what the law is.
13 And there's a lot of facts being thrown at me.

14 However, and this is what I've told and maybe this will help.
15 They're telling me that I have tomorrow afternoon, Thursday afternoon,
16 and Friday afternoon. I know [indiscernible]. Can't do it. Is there -- the
17 settlement conference is on?

18 THE CLERK: Is not.

19 THE COURT: Okay, so we have all day Friday.

20 THE CLERK: We do.

21 THE COURT: And all day Friday. How's that?

22 UNIDENTIFIED SPEAKER: Tomorrow, right?

23 MR. KEMP: Judge, I'd rather do tomorrow just because of the
24 employee problem. You know, and I still don't hear counsel say he's
25 going to pay these people on Friday, which is --

1 MR. CONNOT: We can get into that discussion, Your Honor.
2 There's -- there are --

3 THE COURT: How about this? I make it real easy.
4 Tomorrow and Thursday afternoon? That's --

5 MR. KEMP: That's fine, Your Honor. What time is good for
6 you, then?

7 THE COURT: We're talking 1:30.

8 MR. KEMP: That's fine.

9 THE COURT: We have the rest 5:00 and we come back the
10 following day.

11 MR. CONNOT: So 1:30 both Wednesday and Thursday?

12 THE COURT: Yes, sir.

13 MR. CONNOT: Okay.

14 MR. KEMP: As far as the TRO, their TRO is dissolved?

15 MR. CONNOT: No, no. You got --

16 MR. KEMP: Why should your TRO be in effect?

17 MR. CONNOT: Well --

18 MR. KEMP: You didn't give us a notice.

19 MR. CONNOT: Well, no, because they haven't even complied
20 with the order that you entered, Judge. I mean, we don't get to thumb
21 your noses and order, come in here with contumacious behavior. I
22 mean, it's rewarding bad behavior.

23 THE COURT: Yeah.

24 MR. CONNOT: And two more days is not going to make a
25 difference.

1 THE COURT: Tell me -- well, that's -- what difference does
2 two days make, okay?

3 MR. CONNOT: And we've had --

4 THE COURT: And what about the -- and what about on the
5 flip side, what about their greater concern is payment of the employees.
6 Is that at issue?

7 MR. CONNOT: We -- I think we can have that discussion.
8 There may be -- there may be --

9 MR. KEMP: Judge --

10 MR. CONNOT: There may be issues we can resolve.

11 THE COURT: How about this?

12 MR. KEMP: Here's the issue, Your Honor.

13 MR. CONNOT: But --

14 MR. KEMP: The bank --

15 THE MARSHAL: One at a time, counsel, please.

16 MR. CONNOT: It's --

17 THE COURT: This is what I'm going to do, guys.

18 MR. CONNOT: It's Friday.

19 THE COURT: I can only --

20 MR. CONNOT: We're coming back tomorrow, we're coming
21 back Thursday.

22 THE COURT: Mr. Kemp, what would happen over the next 24
23 hours to the detriment --

24 MR. KEMP: Your Honor, the problem is you -- this is a Friday
25 payroll. It's not a week from Friday. It's this Friday --

1 THE COURT: Right.

2 MR. KEMP: -- in multiple states. So as I understand it, the
3 money's in a bank in Oklahoma. That bank will not release the money
4 unless they get a signature from five different directors, two of which
5 they restrained, so they can't sign it.

6 So all we're asking is that they at least be allowed to execute
7 a document authorizing the transfer of \$700,000 from the bank account
8 which I believe that 60 million plus in it.

9 And there's bank account I believe with \$80 million that all
10 we're trying to do is authorize a \$700,000 transfer to pay these
11 employees on Friday.

12 MR. CONNOT: 24 hours is not going to make a difference,
13 Your Honor.

14 MR. KEMP: Your Honor, it is going to --

15 THE COURT: But my question is --

16 MR. CONNOT: It's -- today's Tuesday.

17 THE COURT: -- wouldn't they -- but wouldn't they be required
18 to pay their employees anyway?

19 MR. KEMP: They're going to default, Your Honor. They want
20 to fire these people. They've announced a reduction in force. They're
21 going to try to fire these people.

22 MR. CONNOT: Well, and that's where part of the dispute
23 comes up.

24 MR. KEMP: And then they're going to back and blame us.

25 MR. CONNOT: That's where part of the dispute comes in.

1 They don't want to have situation where some of the required payments
2 under certain state laws are paid for them on the RIF.

3 It's not just about paying the employees. They don't like the
4 reduction in force plan, which by the way, has been approved by the
5 directors. There have been two director meetings since the July 24th
6 meeting that's in dispute.

7 Mr. King and Ms. Vanderbilt chose not to attend those
8 meetings, okay?

9 MR. KEMP: Because we were --

10 MR. CONNOT: Okay, so but even before they were
11 restrained, okay? Even before they were restrained. Nothing restrained
12 them from attending board meetings.

13 In fact, I sent an email to counsel in New York last week and
14 said what do we need to do to get the information to them? No
15 response, crickets. It's still never been responded to today.

16 So they don't want to participate. Then they want to come in
17 here and complain about it. You go back to all the issues with the
18 independence of the directors under the bylaws.

19 THE COURT: No, no, I get -- that's another day.

20 MR. CONNOT: But --

21 THE COURT: I'm just asking the question regarding the
22 payroll.

23 MR. CONNOT: Yeah.

24 MR. KEMP: Your Honor --

25 MR. CONNOT: So I don't think 24 hours is going to make a

1 difference, Your Honor. Today's Tuesday. Tomorrow's Wednesday.
2 Payday is Friday.

3 MR. PARKER: Your Honor, you hear the -- and I'm trying to
4 find a nice words to saying it. How can you condemn or criticize two
5 board members for not participating when they -- you're using your TRO
6 to prevent them from participating?

7 They can't sign anything on behalf of the bank, on behalf of all
8 these employees because your current TRO says they can't do anything
9 internally or externally in relationship to this -- to Vinco interests.

10 They can't do it because of their TRO. They're using your
11 TRO as a weapon, Your Honor, to prevent them from participating. And
12 then, they use their lack of participation against them in front of Your
13 Honor.

14 THE COURT: Here's my next question for you. And if I make
15 a decision tomorrow as far as payment is concerned, does that -- would
16 that be an impediment to having these employees paid on Friday?

17 MR. KEMP: I think that's tight, Your Honor, because I know
18 with -- they need to direct deposit. We have lost today completely
19 because the money's got to be, you know, by Thursday if they're being
20 paid on Friday.

21 So if we tell the bank, again it's in Oklahoma, if we tell them
22 Wednesday, remember, they're two hour time difference that they can
23 release \$700,000, maybe it can be done, maybe it can't, but --

24 MR. PARKER: You couldn't do it tomorrow afternoon, Your
25 Honor. I mean, I call in my own payroll.

1 THE COURT: No, no.

2 MR. PARKER: You can't do it tomorrow afternoon.

3 THE COURT: I'm listening. I'm just looking at it from a
4 procedural or a technical, how do you do this thing.

5 MR. KEMP: I know. And why for the life of me they won't
6 fund -- we paid enormous sums of money for both of these companies.
7 Now they want to fire all the employees? It's unbelievable.

8 MR. PARKER: And the other thing, Your Honor --

9 THE COURT: Well --

10 MR. PARKER: -- for them to be able to do, you have --

11 THE COURT: Well, wait, wait, but here's the thing.
12 Termination versus pay, that's a different animal, right?

13 MR. PARKER: It is.

14 THE COURT: You know. I mean, if I got terminated, I'd still
15 want my last paycheck.

16 MR. PARKER: Absolutely. And he knows it's a DOL violation
17 not to give it to them.

18 THE COURT: Right, that's my point. I'm not -- I'm looking at it
19 for they're due and owing their paycheck, right? So why wouldn't I grant
20 -- I mean, why would I -- there's a proposed order that was submitted on
21 that issue.

22 MR. PARKER: That's correct.

23 THE COURT: What's wrong with signing that, making sure
24 they get paid? And you know what I'll do?

25 MR. PARKER: We've got to give them the opportunity to

1 resign.

2 THE COURT: Wait, wait, wait. I'm going to let -- Mr. Connot,
3 I'm going to give you an opportunity to talk to your client. We don't need
4 to --

5 UNIDENTIFIED SPEAKER: Am I able to speak, Your Honor?

6 THE COURT: No, you talk to your lawyer first.

7 UNIDENTIFIED SPEAKER: Okay.

8 THE COURT: I'm going to step down for five minutes.

9 MR. CONNOT: Okay.

10 THE COURT: And you guys talk.

11 MR. CONNOT: Step out here.

12 THE COURT: I'm concerned about that. And then, I have my
13 other cases I want to take care of, too, right? So.

14 UNIDENTIFIED SPEAKER: Sorry [indiscernible].

15 THE COURT: No, no, that's fine. Go talk. We have an ante
16 room right here, right?

17 THE MARSHAL: All rise.

18 MR. CONNOT: Yes.

19 [Recess taken at 12:22 p.m.]

20 [Proceedings resumed at 12:26 p.m.]

21 MR. CONNOT: Thank you, Your Honor. Assuming we can
22 keep the provisions of the TRO in place until at least, you know, the
23 Court concludes the hearing on Thursday or if we happen to spill over
24 Friday, we can make the payroll on Friday.

25 You know, the concern is if we didn't, there's a whole of other

1 issues out there, you know, with the default, the NASDAQ de-listing, and
2 the like. So to keep everything else in place with the status quo, we
3 could pay that payroll on Friday.

4 And it's my understanding after having a discussion, they don't
5 need Mr. King or Mr. Vanderbilt, where Ms. Vanderbilt or Mr. Vanderbilt
6 and Ms. King --

7 UNIDENTIFIED SPEAKER: My apologies.

8 MR. CONNOT: -- to authorize that. That's already -- can be
9 taken of with the bank. So payroll can be taken care of to address their
10 concern.

11 THE COURT: All right.

12 MR. KEMP: Judge, I'd like to know where this payroll's
13 coming from because we've been informed they don't have enough
14 money to make payroll.

15 They've been trying to get the Oklahoma bank to release it. I
16 have seen documentation from the attorney for the Oklahoma bank
17 specifically requiring as Exhibit C signatures from all five directors as to
18 the condition of releasing any money.

19 So I just -- I think maybe counsel, they were taken by surprise
20 with this, but from what I've seen, there's no way that they're planning on
21 this money coming out of the bank, that that's going to happen. And I
22 don't think they've got the money to make the \$700,000 payroll just
23 laying around.

24 So, at a minimum, I think we should protect us by having
25 some sort of court order --

1 THE COURT: Well, that's what I'm going to do, Mr. Kemp.

2 MR. KEMP: Okay.

3 THE COURT: If there's going to be a payment, it's going to be
4 pursuant to a court order.

5 MR. CONNOT: Yes.

6 THE COURT: So there's no impediment in there.

7 MR. KEMP: I'm fine with -- I'm fine with that, Your Honor.

8 MR. CONNOT: And I don't know where we get they have all
9 this cash to make it and now they don't have the cash. I mean, it's like --

10 MR. KEMP: No, they have the cash in the bank, Your Honor.
11 There's \$60 million in the bank, that I'm informed today they're trying to
12 get the money out of the bank to make the reduction in force.

13 THE COURT: This is what I want to do, gentlemen.

14 MR. CONNOT: We have to see.

15 THE COURT: And I want to be really clear. I want to maintain
16 the status quo, but I want to make sure everyone gets paid.

17 MR. CONNOT: Yes.

18 THE COURT: But I want to make a decision tomorrow or
19 Thursday that resolves the preliminary injunction and the TRO.

20 MR. PARKER: Your Honor, the only other issue is the
21 difference and the Court made a comment about this. The difference
22 between making payroll and a reduction in force, which would effectively
23 terminate 80 percent of the workforce for Vinco interest.

24 Are you -- I didn't interrupt you.

25 MR. CONNOT: No, I've addressed it. We'll agree.

1 MR. PARKER: Listen, Your Honor --

2 MR. CONNOT: We'll agree.

3 THE COURT: He's agreeing.

4 MR. PARKER: With all respect --

5 THE COURT: He's agreeing. He's agreeing.

6 MR. PARKER: I appreciate that, but agree after I get this.

7 MR. CONNOT: Okay.

8 MR. PARKER: Your Honor, the concern we have is your TRO
9 did not give them the right to terminate these employees.

10 Now it's silent on that issue, but certainly you didn't expect
11 your TRO to be used as a way of circumventing the bylaws of Vinco
12 Ventures by keeping out two board members appointed by its
13 shareholders and preventing them to -- from participating in from what
14 we've learned now two additional board meetings without their
15 involvement whatsoever.

16 And then, to use those two board meetings to effectively
17 determine that they're going to fire 80 percent of the workforce.

18 That wasn't the intention of your TRO. So I'd like the Court to
19 at least until the Court can decide all the merits to --

20 THE COURT: I'm sorry.

21 MR. PARKER: -- allow these two board members duly
22 appointed or elected by the shareholders to participate if there are any
23 meetings between now and tomorrow and not to allow them to terminate
24 80 percent of the workforce. Your TRO certainly didn't consider that to
25 be the status quo.

1 MR. CONNOT: Your Honor, if I may? The RIF, the reduction
2 in force, was voted back on July 10th of 2022.

3 But that aside, we're not going to do the RIF. As I said, you
4 know, an opportunity to try and argue and impugn my clients or the
5 company, but the company, they had notice. Mr. Vanderbilt and Ms.
6 King had notice of those meetings that occurred. They chose not to
7 attend.

8 Their counsel in New York, who accepted service, was asked
9 how do you want to facilitate this? Crickets, silence. As of today,
10 they've still not respond to that email.

11 So, yes, if there is a meeting, they'll get notice of it. I don't
12 think -- I don't think there's any meetings planned in the next couple
13 days because they need 48 hours' notice anyway.

14 So there aren't going to be any meetings. The RIF was
15 something that was voted on, but the RIF is not going to occur between
16 now and Friday.

17 MR. PARKER: Your Honor, just for the record, is Mr. Connot
18 now saying that my clients, Ms. King and Mr. Vanderbilt, have the ability
19 to participate on behalf of Vinco's interest and board members because
20 that's not what your order currently says.

21 And if so, let's have a revised order sent to this Court
22 indicating that they have the ability as duly appointed board members to
23 participate in the governance of Vinco Ventures.

24 MR. CONNOT: If there are board meetings that are called.

25 THE COURT: Anyway, I mean, I understand the competing

1 interests. I get that. For now, what I'm going to do is this. I'm going to
2 maintain the status quo, including -- I mean, I'm looking here at the
3 order. Is there a problem with the order that was submitted as it pertains
4 to payment of the employees? Have you looked at that?

5 MR. CONNOT: I have not looked at it that closely, Your
6 Honor, because it wasn't -- it wasn't noticed up. I can take a quick look.

7 THE COURT: Can you look at it today so I can potentially
8 sign it?

9 And secondly, it seems to me that the -- that there's no issue
10 regarding termination of employees at least for the rest of the week. In
11 hotly conducted matters, I understand there's not the necessary
12 especially initially, level of trust amongst the parties.

13 So if there's a representation being made that there won't be a
14 termination between now and say Monday morning, can't we put that in
15 an order?

16 MR. KEMP: Yes.

17 THE COURT: Okay.

18 MR. PARKER: Agreed. And the same in terms of the
19 participation of Ms. King and Mr. Vanderbilt. They're board -- duly
20 elected board members.

21 THE COURT: But there's not going to be any board meetings
22 in the interim, right?

23 MR. CONNOT: No.

24 THE COURT: See, I'm -- this is what I'm doing. I'm going to
25 hold it off on that. I just want to do two things. Payment, there's not

1 going to be any termination.

2 And then, the TRO remains in place. And we -- let's move
3 forward. And we'll make decisions as to the -- whether or not the TRO
4 should continue in light of probability of success on the merits and all the
5 other issues that are required under Rule 65.

6 MR. PARKER: I thought I heard concession, Your Honor, that
7 those board members, Mr. Vanderbilt and Ms. King, are still allowed to
8 participate as board members.

9 I just also heard that he's not going to have any scheduling
10 meeting between now and the next couple days, but I want to make sure
11 we're clear on that point because that differs somewhat than the TRO.
12 Maybe that's -- that wasn't their intention, but they've been able to
13 exclude them for the last -- since August 5th because of it.

14 THE COURT: I'll put it in the order, too. They'll be no board
15 meetings until Monday.

16 MR. PARKER: That's good.

17 THE COURT: I mean, you know, I can problem solve.

18 MR. CONNOT: Now that being said, Your Honor, there's
19 nothing planned and we would not do anything but I mean --

20 THE COURT: Yeah.

21 MR. CONNOT: -- depending on what circumstances arise in
22 the world --

23 THE COURT: Yeah.

24 MR. CONNOT: -- we may request the Court either tomorrow
25 afternoon or Thursday to possibly schedule, you know, let a board

1 meeting go forward if the parties can't otherwise agree.

2 Just because, you know, there's so many things to come
3 down the pike that might require a board meeting, but there are no
4 planned board meetings. We would not hold any board meetings. The
5 company would not unless there's an agreement of all the parties or
6 Your Honor directs it so.

7 MR. PARKER: And there's no further action from the board
8 can be taken until this Court addresses this current motion.

9 MR. CONNOT: No further action.

10 MR. PARKER: Board action. Because you have two board
11 members here who believe based on a current TRO they were not
12 allowed to participate.

13 If you're saying now that was a mistake in terms of the threat
14 of the TRO, fine. And we can put that in the order. The Court can sign
15 it.

16 But if you're intending to have the board do something without
17 their participation, we need to make sure that's clear. It's not going to
18 happen.

19 MR. CONNOT: It's not going to happen. I just want to make
20 sure I understood where you're coming from, Mr. Parker.

21 THE COURT: Yeah.

22 MR. CONNOT: Correct. You are correct. That's not going to
23 happen.

24 THE COURT: All right.

25 MR. KEMP: Judge, should I prepare the order and run it by

1 Mr. --

2 THE COURT: I think you have a good working relationship.

3 MR. KEMP: I think we do, Your Honor --

4 MR. CONNOT: Yeah.

5 MR. KEMP: -- but I just want to make one final little point.

6 There's a number of companies involved here, so not just the Vinco
7 employees we're worried about. It's AdRizer, Weintok [phonetic], and
8 Lomotif or hope I'm saying that right.

9 MR. CONNOT: Yeah.

10 MR. PARKER: Lomotif.

11 MR. KEMP: I don't want anyone terminated.

12 MR. CONNOT: That's a significant issue, Your Honor, to be
13 discussed in further hearings. At this time, we're going to hold our nose
14 and write the check and make sure they're all paid.

15 There are some real issues with those employees, but my
16 representation about payroll is, you know, anyone who's been on the
17 payroll will remain on the payroll.

18 THE COURT: Understood.

19 MR. KEMP: Yeah, I will try to do an order, Your Honor, and
20 get it over here by 5:00.

21 THE COURT: Yes, and I'll be here. So I can sign it. And
22 tomorrow at what time again?

23 THE CLERK: 1:30, Judge.

24 THE COURT: 1:30.

25 MR. CONNOT: All right, thank you, Your Honor.

1 MR. KEMP: Thank you Your Honor.

2 THE COURT: Okay.

3 THE CLERK: Mr. Connot, before you go, can I get the
4 spelling, just last names of the folks --

5 MR. CONNOT: Mr. Colucci?

6 THE CLERK: Yes, if you don't mind.

7 MR. CONNOT: C-O-L-U-C-C-I, John Colucci.

8 THE CLERK: Thank you.

9 MR. CONNOT: And Adele, A-D-E-L-E Hogan, H-O-G-A-N.

10 THE CLERK: Perfect.

11 MR. CONNOT: Thank you.

12 THE COURT: And tomorrow morning, if you know, there's
13 other documents you want me to review, you plan on utilizing, try to give
14 me a hard courtesy copy. You can drop it by the department.

15 MR. CONNOT: As far as their reply, I --

16 THE COURT: And you know what?

17 MR. CONNOT: -- if I do, I'll try to make it short. I don't know
18 that I will, but --

19 THE COURT: No, that's okay. But I'm looking at it from
20 perspective. If they're -- I'm more concerned of documents.

21 MR. CONNOT: Okay.

22 THE COURT: Because I kind of anticipate your -- in your
23 reply, you can handle -- because the motion, the Opposition wasn't that
24 long.

25 MR. CONNOT: Right.

1 THE COURT: You can handle whatever issues you think are
2 important in open court. I have no problem with that.

3 MR. CONNOT: Okay.

4 THE COURT: But I'm more concerned about if there's bylaws,
5 documents, and things like that, you want me to review --

6 MR. CONNOT: Understood.

7 THE COURT: -- and have in my possession, if you get them
8 to me say by 11:00 tomorrow.

9 MR. CONNOT: Absolutely, Your Honor.

10 THE COURT: Same thing for the --

11 MR. PARKER: We've attached the bylaws, Your Honor --

12 MR. CONNOT: Yeah.

13 MR. PARKER: -- as well as the Code of Conduct.

14 THE COURT: Yeah, I have that right here, but I'm just looking
15 at it from this perspective. I don't -- I haven't reviewed it and I don't
16 know if there's everything that you want to present.

17 MR. PARKER: This kind of has the minutes from the July 8th
18 and July 17th meeting. And I would ask that you bring copies of those.
19 We reference them, but we don't see them made available.

20 MR. CONNOT: I'll actually -- we'll actually get those to Mr.
21 Parker and Mr. Kemp.

22 MR. PARKER: Thank you.

23 THE COURT: Yeah, but my point is this. Whatever you want
24 to support your position --

25 MR. CONNOT: Yeah.

1 THE COURT: -- as it pertains to the hearing tomorrow --

2 MR. CONNOT: Yeah.

3 THE COURT: -- make sure we have it, so I can review it.

4 MR. CONNOT: And certainly, you know, if all I want is -- I
5 don't want to come in here tomorrow though and have them complain
6 they didn't receive something. So if you have something you think you
7 want --

8 MR. PARKER: That's what I want.

9 MR. CONNOT: -- make the request, please. So if there's
10 anything else --

11 MR. PARKER: July 8th and July 17th board meetings.

12 MR. CONNOT: Yeah, and if there's anything else, let us
13 know, because I don't want to come in here tomorrow and have -- and
14 be criticized that we failed to provide documents when there's been no
15 requests made.

16 MR. PARKER: One other thing, Mr. Connot?

17 MR. CONNOT: Yes?

18 MR. PARKER: You said that there were two other board
19 meetings that have happened since August 5th. Please provide those
20 minutes.

21 MR. CONNOT: Absolutely.

22 MR. PARKER: Thank you.

23 MR. CONNOT: Yeah.

24 THE CLERK: Gentlemen?

25 MR. CONNOT: Yes, sir.

1 THE CLERK: Apologize, BlueJeans may change, so counsel
2 that are here expect an email if it changes and we'll let you know in
3 advance of course. We may use a different meeting ID, too, to the
4 amount of people connecting.

5 MR. PARKER: We'll see you at 1:30.

6 MR. CONNOT: By --

7 THE COURT: 1:30.

8 MR. CONNOT: -- the way, there were minutes from board
9 meetings that your clients were involved in that we've not been provided.

10 MR. PARKER: Call [indiscernible] and we'll get it over.

11 MR. CONNOT: Okay, awesome.

12 THE COURT: That's what I'm talking about. All right.

13 MR. CONNOT: Thank you, Your Honor.

14 THE COURT: Everyone enjoy your day.

15 MS. ZORNES-VELA: Thank you.

16 [Proceedings concluded at 12:38 p.m.]

17 * * * * *

18

19

20 ATTEST: I do hereby certify that I have truly and correctly transcribed the
21 audio/video proceedings in the above-entitled case to the best of my ability.

21

22

23

24

25

a h

Chris Hwang
Court Reporter

EXHIBIT "C"



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 VINCO VENTURES, INC.,
9 Plaintiff,

CASE#: A-22-856404-B
DEPT. XVI

10 vs.

11 THEODORE FARNSWORTH, et
12 al,
13 Defendants.

14 BEFORE THE HONORABLE TIMOTHY C. WILLIAMS, DISTRICT COURT
15 JUDGE

16 WEDNESDAY, AUGUST 17, 2022

17 **RECORDER'S TRANSCRIPT OF HEARING**
18 **PLAINTIFF VINCO VENTURES INC.'S EMERGENCY MOTION FOR**
19 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY**
20 **INJUNCTION**

21 APPEARANCES:

22 For the Plaintiff:

MARK CONNOT, ESQ.
REX D. GARNER, ESQ.
JOHN M. ORR, ESQ.

23 For the Defendant:
24 (Theodore Farnsworth)

WILLIAM S. KEMP, ESQ.
NATHANIEL R. RULIS, ESQ.
MADISON ZORNES-VELA,
25 ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (continued):

For the Defendant:
(Lisa King and Roderick Vanderbilt)

THEODORE PARKER, III, ESQ

Also Appearing:

ADELE HOGAN, ESQ.
LISA KING
JOHN COLUCCI
RODERICK VANDERBILT
ERIK NOBLE [BlueJeans]

RECORDED BY: MARIA GARIBAY, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

Court's Ruling

Page
75

1 Las Vegas, Nevada, Wednesday, August 17, 2022

2
3 [Case called at 1:40 p.m.]

4 THE MARSHAL: Department 16 is now in session, the
5 Honorable Timothy Williams presiding. Please be seated.

6 THE COURT: All right, I just want to say good afternoon to
7 everyone. And let's go ahead and set forth our appearances on the
8 record?

9 MR. CONNOT: Thank you, Your Honor and good afternoon.
10 Mark Connot. Also with me Rex Garner and John Orr with my office.
11 Adele Hogan, who has in the process of submitting a pro hac, but has
12 not yet been admitted pro hac and John Colucci here at counsel table as
13 well.

14 THE COURT: Right, and good afternoon.

15 MR. CONNOT: Thank you.

16 MR. KEMP: Your Honor, Will Kemp with Kemp Jones
17 representing Mr. Farnsworth.

18 MR. PARKER: Good afternoon, Your Honor, Theodore
19 Parker as well as Lisa King and Rod Vanderbilt sitting right behind her.

20 MR. RULIS: Good afternoon, Your Honor, Nate Rulis on
21 behalf of Defendants. We also have Mr. Noble, who's here on
22 BlueJeans and with me, we have another associate in our office,
23 Madison Zornes-Vela.

24 THE COURT: Okay, once again, good afternoon to everyone.
25 And I just want to bring up a preliminary matter. It has nothing to do with

1 conduct of counsel in this case, but yesterday, we did have some
2 problems with BlueJeans. I think everyone is well aware of that. It's my
3 understanding that we had potentially 200-plus shareholders try to
4 connect and we had problems with the audio visual and all those things.

5 And so, I had a discussion and sought the guidance of the
6 Chief Judge, Judge Wiese. And here's his response. I just wanted to
7 make sure that this is read into the record because what I've done is I
8 have limited access in BlueJeans for the purposes of this hearing.

9 And see, normally I have no problem with access, but we have
10 bandwidth issues. And just as important, too, it's my understanding or
11 it's come to my attention that apparently, the hearing yesterday was
12 linked to what is it?

13 THE JEA: Twitter.

14 THE COURT: Twitter, you tube all these things, right?

15 And when it comes to transmission, you have to get the
16 consent of the Court, right? You do. I mean, there's a process you go
17 through. I can't remember any time I have declined giving consent, but
18 nonetheless, there's procedures you have to go through. Heck, the
19 media has to go through it and I've never declined them.

20 But anyway, what did judge -- and this is what he said. He
21 quote, and this is from Judge Wiese. He suggested that Judge Williams
22 place on the record at the start of the hearing this afternoon that on
23 8/16/2022, he allowed BlueJeans link to be provided to the investors
24 who called for the information, which was under 10 or so who called.

25 One of them blasted the information on Twitter, which resulted

1 to in over 200 people logging into the hearing.

2 Additionally, some livestreamed the session on YouTube. The
3 observers on BlueJeans did not mute their phones as requested,
4 clogged up BlueJeans chat, and which it could only be used by counsel,
5 and there were other disruptions and things like that noted.

6 And so, I just wanted to make sure that the record's real clear
7 on that. I believe in access, right? I really and truly do. I always been a
8 proponent of that, but access can't result in chaos, right? That's kind of
9 how that works.

10 And so, anyway, if there's any question on that issue, I just
11 wanted to make sure everyone understood. And at the end of the day, I
12 follow the guidance of the Chief Judge. And that's why I did what I did,
13 so everyone understands. It's not just something I decided to do
14 randomly or whatever.

15 But anyway, I know we have some matters to deal with today.
16 And I guess we might as well get started, right?

17 MR. CONNOT: I think maybe the first issue, Your Honor,
18 Mark Connot, the first issue Your Honor, and Mr. Kemp and I have had
19 some discussions, there's still some daylight between us --

20 THE COURT: I understand.

21 MR. CONNOT: -- on the language of the proposed order. I
22 don't know, you want to approach, you want me to take it up, or
23 whichever? This --

24 THE COURT: You can hand it to the Clerk.

25 MR. CONNOT: What I've just handed the Clerk, Your Honor,

1 is my office's redline. So Plaintiff's redline of Defendant's most recent
2 version of the proposed order.

3 So when you see the redline edits, those are provisions that
4 the Plaintiff disagrees with and believes should be taken out.

5 And you know, the first one the Court will see on page 2,
6 paragraph 2, the company as it currently sits is authorized to do so. It
7 has the ability to get the funds from the bank. And fact, the bank has
8 advised them we don't believe that's necessary.

9 As far as the following, you see at the bottom of page 2, the
10 entry of the paragraph begins Plaintiff stipulates and agrees will not
11 terminate any employees of the following any of these on or before
12 Monday, August 22nd, 2022. And it lists various entities.

13 The last one, (f), Lomotif, we have no control over. The
14 company has no control over, so we can't terminate them anyway.

15 And I don't think, I don't want to speak for Mr. Kemp, but in our
16 discussions, I don't recall that that is a area of concern. I think
17 Defendants may be agreeable to that.

18 On 3, the position is and maybe I get a little bit of context and
19 if I'm incorrect, one of the competent people will correct me. But there is
20 a -- is it a loan payment Lomotif? What was the --

21 UNIDENTIFIED SPEAKER: It's a loan payment
22 [indiscernible].

23 MR. CONNOT: What's the purpose of the monthly payment to
24 Lomotif?

25 [Counsel confers with client]

1 MR. CONNOT: Okay, so the company loans money to
2 Lomotif, which is a separate company with no, has -- you know, Lomotif
3 -- Vinco Ventures has no ownership interest or otherwise.

4 And so, it shouldn't be that Vinco Ventures has to pay Lomotif
5 payroll.

6 MR. COLUCCI: It's not to be paid GDD, but you do have the
7 ownership of Lomotif.

8 MR. CONNOT: You do have an ownership.

9 MR. COLUCCI: Small minority ownership.

10 MR. CONNOT: Okay, so minority. What's percentage?

11 MR. COLUCCI: I don't know off the top of my head.

12 MR. CONNOT: Okay. A percent of Lomotif but
13 they -- company feels it shouldn't have to fund the payroll for Lomotif.
14 That should be Lomotif's issue.

15 And then, the final paragraph because of the fact that the
16 company may need to hold board meetings, given the fact as noted
17 yesterday there's an event of default that was received from really the
18 sole creditor and my understanding of one if the only, if not the sole
19 creditor of the company, where they issued a notice of default on a \$80
20 million note, which also has a \$16 million penalty.

21 And the company may need to take swift action on that. So
22 we'd like the ability to, you know, notice and call board meetings if
23 necessary or seek an order of the Court. So that's the basis and
24 reasons for our redlines to the most recent version provided by the
25 Defendants.

1 THE COURT: Right.

2 MR. KEMP: Your Honor, our response is, as counsel
3 indicated, the thing without redlines is our last proposal to them. And
4 this has gone through four or five iterations, Your Honor.

5 With regards to taking a Lomotif out of the bottom of 3, I don't
6 have a problem with that, but we do have to provide for the payment to
7 Lomotif.

8 This is an organizational chart. [Indiscernible.] If you see
9 Lomotif is a subsidiary of the company on the far right. They don't own
10 all Lomotif. It's understanding we own 80 percent. That's what we got
11 for the \$113 million.

12 We paid \$113 million for Lomotif. That's was a big purchase.
13 And, again, Lomotif is the one that has the product. It's kind of like
14 TikTok. And so, that's a big [indiscernible].

15 So Lomotif funds their payroll out of payments made to a
16 private company. Their payroll is done I'm informed is made once a
17 month.

18 THE COURT RECORDER: Mr. -- I can't hear him.
19 [Indiscernible].

20 MR. KEMP: Yeah, the LoMotif payroll, I'm informed, is made
21 once a month. If the Lomotif payroll is not made, potentially every
22 employee we have in this company, and this company's located in
23 Singapore, Your Honor, which has different laws. I don't profess to be
24 an expert on Singapore law, but I'm told if people don't get paid in
25 Singapore, it's a big problem.

1 So that's why we think Lomotif -- and this is not an unusual
2 payment for the company. This payment has been being made, Your
3 Honor.

4 Why they want us to spend it now, I don't know. But it
5 jeopardizes an asset that they paid \$113 million for last year. So, you
6 know, for the life of me, I can't understand why they don't want to fund
7 that payment, but that is our first.

8 THE COURT: I mean, I'm going to tell everybody I kind of see
9 this slightly different. I'm wondering why should I even make a decision
10 regarding this order until because -- I might go a company different way
11 as far as I know there's a TRO in place. There's a request from a TRO
12 from the defense.

13 I've read the points and authorities. I understand there's
14 issues regarding whether or not the chairman should have been involved
15 and directed the board meetings pursuant to Section 5.5 of the bylaws. I
16 get that.

17 And there's issues being raised regarding breach of fiduciary
18 duty and responsibility. There's issues regarding corporate governance.
19 I kind of understand what's going on with the case.

20 And so, what I'm saying is this. We can spend a lot of time on
21 this, but at the end of the day, it's going to come down to what my
22 ultimate decision is today. I don't mind telling you that.

23 Secondly, and this is really important to me as a judicial
24 officer, because I'm looking at this case, right? And I realize there's a lot
25 of money at stake. There is a lot of investments.

1 And I don't mind saying this. This isn't the largest case I
2 presided over. Heck, I think I have the Wynn shareholder derivative
3 litigation case. You know that, right?

4 MR. CONNOT: Yes.

5 THE COURT: And you know how that ended up? Because --

6 MR. CONNOT: Yes, Your Honor.

7 THE COURT: Okay, and we've had some payments, but my
8 point is this. There's a lot of competing interests here. And I get it,
9 right?

10 But what potentially could occur would be a rush to judgment
11 by a trial court. And I think that's ever appeared in front of me over the
12 last almost 17 years know -- they know one fact. I don't rush. I don't do
13 things to respond. I do things when I think the record has been well
14 enough developed and I'm clear on what the appropriate case law would
15 be and/or there rules.

16 Because I don't mind saying this. I think the case law and the
17 rules are my best friend. I also seek safe haven in the rules and in the
18 case law. I do. And the statutes. And potentially the bylaws and other
19 corporate governance issues that pertain in this case.

20 So I have a general idea as to what's going on. I understand
21 there's been a lot dropped in my lap over the last 48 hours or so, right?
22 But I'm looking at it through that lens, because I don't mind telling
23 everybody what I'm thinking about, you know. I don't.

24 So I think what we need to do is to dig in as far as the --

25 MR. KEMP: Judge, can I suggest --

1 THE COURT: Yeah, go ahead.

2 MR. KEMP: -- we'll drop the Lomotif issue. And I think we
3 can agree to the stipulation and protect at least the other 90 employees.

4 THE COURT: Yeah, I mean, and one thing, I mean,
5 historically, at this stage, I don't mind you telling you this. I don't want to
6 make any rash decisions that impact the viability of the business, right?
7 I don't.

8 MR. KEMP: Well Your Honor, if we drop the Lomotif issue,
9 you know, that would be accepting their change deleting Lomotif from
10 paragraph 3 and deleting our proposed paragraph 4.

11 The only issue we have left really is the stipulated agreement
12 not to hold Board of Director's meetings.

13 There -- they came back and they made a reasonable point,
14 which is what if there's an emergency? And there may be an
15 emergency.

16 So I said, okay, how about absent agreement of the parties or
17 order of the Court, which I thought was a reasonable compromise,
18 because obviously, we don't want this entity to go under. That's why
19 we're here, Your Honor.

20 So I thought that was a reasonable proposal which modifies
21 the dispute on the last paragraph.

22 THE COURT: Mr. Connot, sir?

23 MR. CONNOT: The position of the company is that, you
24 know, the shareholders, you know, and elected directors, the directors
25 have fiduciary duties and if they need to hold a board meeting, they

1 need to hold a board meeting.

2 THE COURT: Right.

3 MR. CONNOT: Certainly, you know, without 48 hours' notice,
4 it would take the unanimous consent of all five directors, so including Mr.
5 Vanderbilt and Ms. King.

6 On less than 48 hours' notice, it would require their consent or
7 we'd have to seek an order of the Court in any event. But certainly upon
8 48 hours' notice, they should be able notice -- properly notice up under
9 the bylaws and statute a director meeting and transact business that's
10 properly before the company.

11 THE COURT: Okay. Are there any issues regarding the
12 composition of the board?

13 MR. KEMP: Yes, Your Honor. There is. We --

14 THE COURT: I mean, that's kind of where -- that's where the
15 rubber meets the road.

16 MR. KEMP: That's where the rubber meets the road, Your
17 Honor.

18 THE COURT: Yeah.

19 MR. KEMP: So what happens when Mr. Colucci came in.
20 And the reason he came in is because the previously independent
21 director was found to have a financial interest in the amount of
22 \$120,000. So he was no longer an independent director.

23 So that director went out and they had to bring in a new
24 director. Mr. Colucci came in relatively late in the replacement process.
25 We contend he should have been vetted a little more. We think and

1 that's why as --

2 THE COURT: Well, and I think there was an investigation
3 going on, something like that?

4 MR. KEMP: Well what happened is the chairman of the board
5 asked Gibson and Dunn to --

6 THE COURT: Yeah.

7 MR. KEMP: -- do an independent investigation. And the
8 attorney at Gibson Dunn was a former vice something or other of the
9 SEC, so he was eminently qualified to do it.

10 And so, they were taking a look at two things. One,
11 disclosures that were made on the application that Mr. Colucci
12 submitted.

13 And we contend that those weren't adequate for a couple
14 reasons, one of which some of the positions he claimed to have in his --
15 to be diplomatic, enhanced his status a little bit.

16 And two, we think he had a financial interest that should have
17 been disclosed and wasn't disqualified, but we didn't want to make that
18 determination. So we asked Gibson Dunn to do it.

19 And then, Gibson Dune started on it. They contacted Mr.
20 Colucci. And then all of a sudden, the -- they noticed an emergency
21 board meeting to fire Gibson and Dunn.

22 So Gibson and Dunn has never been allowed to finish the
23 investigation. Excuse me, they sent an email to Gibson Dunn
24 threatening them, saying that they were suspicious of their ethical -- they
25 thought their ethics were compromised. And Gibson Dunn said I don't

1 want any part of it and they backed out.

2 So today, there has been no investigation even started on Mr.
3 Colucci's number one disclosures, and two, his financial interests if any.

4 So that is the -- that is the problem, Your Honor. If they had
5 let Gibson Dunn finish it, that probably would have been done a month
6 ago, you know, but it hasn't been done.

7 And so, that's why we filed the motion that we sent to counsel
8 on Monday night, even the Court hasn't signed the OST on it. I'd like to
9 have my card on the table.

10 But in any event, we filed a motion on order shortening time
11 asking the Court to pick an attorney, someone like Mr. Erga [phonetic],
12 maybe, someone who knows this stuff to do the investigation on the
13 disclosures and the financial [indiscernible].

14 And that would solve the problem with regards to whether or
15 not Mr. Colucci should or should or not be an independent director.

16 Obviously, they don't want to do that. They want to rely upon
17 the determinations that they have made Mr. Colucci voting on each one
18 of them.

19 Obviously, they can't win and get a majority vote without Mr.
20 Colucci voting. So he votes himself in as CEO. He votes himself a
21 payment package of 250,000 and we haven't seen the contract.

22 He votes to fire all these 80 percent employees. He votes to
23 give \$5 million to Mr. Yang's company to presumably duplicate what
24 they paid the other company \$113 million for, which doesn't sound like a
25 sound business judgment to me, but then it was.

1 In any event, Your Honor, that's why we think that continuing
2 this, and I'll call it fiasco because wait till you here the tape of one of the
3 board meetings. It is embarrassing I think for all participants. And to
4 think that this is an NASDAQ company, they have a board meeting like
5 that.

6 But anyway, we just can't keep continuing the fiasco of
7 noticing board meetings on 48 hours' notice, not have a real board
8 meeting, just have Mr. Colucci ram through whatever he wants without
9 him being vetted. That's the fundamental problem here, Your Honor.

10 And that's why we don't think that there's a problem having
11 some minor prohibition on the ability to have a board meeting.

12 Yesterday, the Court suggested there be no more board
13 meetings because every time we turn around, there's a board meeting
14 voting on something.

15 So our proposed language, I think, you know, and obviously,
16 we don't want this corporation go under, Your Honor. That's why we're
17 here. You know, this is Mr. Farnsworth, he's got years and years of
18 work on this thing.

19 Ms. King has years and years of work on this thing. The
20 chairman's got years and years of work on this thing. We don't want this
21 going under.

22 So to suggest that there's going to be some emergency that
23 we're not going to be responsive to, I don't think it's appropriate. And if
24 there is, they can call up the Court and I'll be down here in an hour, Your
25 Honor.

1 But you know, there's got to be some -- there's got to some
2 stop to this perpetual board meeting to keep supposedly doing things
3 until Mr. Colucci get properly vetted.

4 MR. CONNOT: Your Honor, there's a lot wrapped up in what
5 counsel has stated and certainly a lot that we disagree with.

6 So I mean, and I don't wouldn't to like go through history, but if
7 we're sitting here complaining about board meetings and we go back to
8 the July 8th board meeting, which sort of kicked us off, called on one
9 hours' notice, not compliant, and so we can go through of that.

10 The issues about Mr. Colucci, it's a NASDAQ rule as to
11 whether or not he can sit on an independent committee of the board.
12 Has nothing to do with whether or not he can be on the board of
13 directors.

14 And what it comes down to is whether or not he has received
15 \$120,000 or more in each of the last three years, which he has not,
16 which he has not.

17 And so, Gibson Dunn, I mean, if you believe that Gibson Dunn
18 you know I -- that they were coerced into something by the company,
19 you know, they're not shrinking violets. They know how to take care of
20 themselves.

21 And the investigation, you know, to sit here and say that, well,
22 that would then make him ineligible as a board member. No, it makes
23 him even if the allegations were true, it makes him under the NASDAQ
24 rule, he can't sit on an independent committee of the board.

25 And so, someone else can fill that seat. We also have a

1 shareholders meeting, this Court notes, on the 23rd.

2 So to state that meetings are being noticed, the 48 hours'
3 notice has been done. And if you want to talk about a fiasco, yeah. I
4 mean, it's -- there -- that July 24th board meeting, but certainly Mr.
5 Colucci was entitled to vote on the issues.

6 Once again, it's an NASDAQ issue as to whether or not he
7 can sit on an independent committee. He can vote on those issues. He
8 was put on the board in June of 2022, July 24th of 2022, he's a director.
9 He can vote on any of those issues.

10 The Gibson Dunn investigation would not have changed any
11 of that, other than him being able to sit on certain independent
12 committees under the NASDAQ.

13 THE COURT: But here's my question. How do we know that
14 for sure, because the investigation wasn't completed?

15 MR. CONNOT: But --

16 THE COURT: I mean, and only reason I say that is this.

17 MR. CONNOT: Yeah.

18 THE COURT: We don't know what's in a person's past. And I
19 can say that. I mean, for example, I know this. When Kitty Gwynn
20 [phonetic] appointed me to the bench, I was well vetted, right, in 2006
21 because I went to the judicial selection process.

22 And they did an FBI background check and all sorts of things,
23 right? Fortunately, nothing came up, you know.

24 And that's kind of my point, but we just can't assume that
25 because someone represents that they don't have a problem that there

1 is.

2 I'm not -- and I'm being really specific on that, because that's
3 why when it comes to appointments and those types of things, many
4 times, people are vetted. And that's -- and I don't see anything wrong
5 with vetting. I just don't.

6 MR. CONNOT: Well, I don't see anything wrong with vetting,
7 Your Honor, but the issue is is it wouldn't make any difference as to
8 whether or not he could vote and act on the issues that were before the
9 board on July 24th because --

10 THE COURT: But would have the impact --

11 MR. CONNOT: -- that only has to do with whether or not he
12 can sit on the independent employee.

13 THE COURT: But here's my question. Would that impact his
14 position potentially as an independent director?

15 MR. CONNOT: Not -- there's a --

16 THE COURT: Depending on what they found, right?

17 MR. CONNOT: An NASDAQ rule that says -- it doesn't
18 mean -- you can still be a director even if you had received more than
19 \$120,000 per year for each of the last three years. You can still be a
20 director.

21 You cannot be on an independent committee of the board
22 under the NASDAQ rule. That's one of the documents. I know there's a
23 plethora of documents submitted to the Court.

24 That's one of the documents that we submitted earlier today
25 and it's one of the exhibits is the specific NASDAQ rule.

1 It does not say you can not be a director. It does not say you
2 cannot vote on things. You can vote on anything except you cannot be
3 on one of the independent committees that are required in publicly
4 traded companies.

5 THE COURT: Okay, here's my next question. And I know the
6 answer to this, because all these business cases, here's a lot of overlap,
7 but all of them have different issues.

8 What about the initial selection of a -- as a member
9 independent director on the board? Are you saying that hypothetically,
10 after investigation, that might not have impacted his potential
11 appointment and approval as an independent director?

12 MR. CONNOT: Your Honor, there was a vetting process. Ms.
13 King and Mr. Vanderbilt -- Mr. Vanderbilt was Chairman of the Board at
14 the time. There was a vetting process. So now they're saying they
15 improperly vet him?

16 THE COURT: What was that process, do you know?

17 MR. CONNOT: I --

18 MR. KEMP: The process was Vanderbilt --

19 THE COURT: I mean, no, I'm going to let him finish. What
20 was the process?

21 MR. CONNOT: I don't know what the process was. What
22 was the process? Hold on.

23 THE COURT: So we don't -- wait a second, wait a second. If
24 you don't know what the process is, we don't know if there's a vetting
25 process.

1 [Counsel confer]

2 MR. CONNOT: So what I've been told is the background
3 investigation, all of the normal vetting that would be done for a publicly
4 traded company, the only thing that wasn't done was whether or not he'd
5 received more than \$120,000 in each of the last three years, which he
6 hasn't. And he's prepared to present testimony on that, Your Honor.

7 MR. KEMP: Your Honor, here's what really happened. I don't
8 want to castigate anybody, but if we're going to start talking about the
9 issues a little deeper, Mr. Colucci three years ago was a telemarketer.
10 We've presented affidavits.

11 You know, and I don't say that derogatorily because you
12 know, people have to call up and ask little old ladies to buy pens. You
13 know, that's a profession in this country, but that was his background.
14 He was a telemarketer.

15 When the independent director resigned, over the \$120,000,
16 they had to come up with another independent director. Mr. Colucci
17 came up late in the process.

18 And there's a reason for that, that gets a little deeper, but this
19 law firm that purported to do the investigation has literally been fired five
20 times now. Okay, they don't want to let go of this file, the New York firm
21 that's sitting there, five times now.

22 So they came up with Mr. Colucci. They were the ones that
23 did the vetting. So Mr. Vanderbilt is the Chairman of Board. Said let's
24 get Gibson Dunn do a real job on this and send it off to Mr. -- to Gibson
25 and Dunn to do, which they started. They contacted Mr. Colucci.

1 Okay, they didn't want a vetting, okay. Okay, we think we
2 know some of the things that are going to come up. And we've alluded
3 to it in some of the affidavits, but they didn't want a real vetting by
4 Gibson and Dunn.

5 So what they did is they contacted Gibson and Dunn and said
6 something to the effect in the emails in the record that you're -- we
7 challenge your ethics or you're ethically compromised or they said
8 something like that to Gibson and Dunn.

9 And again, this is one of the former -- he's not chairman, but
10 he was right under the chairman of the SEC from the counsel's office.

11 He was the one responsible for this vetting at date of hire. So
12 it's not like we hired a -- or Mr. Vanderbilt appointed a schmuck.

13 And so, they started the vetting. So they scare aware Gibson
14 Dunn. And then we see these ridiculous series of directors meetings
15 being noticed, some on no notice, some on 48 hours.

16 And I guarantee you, Judge, when you hear this 35, 40 minute
17 meeting where everybody is shouting at everybody else, you'll go, oh,
18 my God, you know, this is -- I've never heard anything like it.

19 But in any event, that's why we need to vet Mr. Colucci
20 because there's a serious problem here. You can't just turn your back
21 on it and say, oh, Judge, NASDAQ rules. NASDAQ doesn't go in and do
22 independent vetting.

23 THE COURT: Well, I mean, and got to remember, this is a
24 Nevada corporation.

25 MR. KEMP: It is.

1 THE COURT: So Nevada, it's a business Court, right? And I
2 understand there's NASDAQ rules, but there's also corporate rules here
3 in Nevada regarding fiduciary duties and responsibilities and all those
4 things.

5 MR. CONNOT: And --

6 THE COURT: It's quite different. I mean, I understand
7 NASDAQ a little bit.

8 MR. CONNOT: And there's no allegation that any of that, any
9 violation of Nevada law has occurred here. They want to talk about this
10 independent investigation. They want to talk about board meetings.

11 Let's go back to the July 8th board meeting. One hour notice.
12 Okay, they make all of these major changes, including retaining Gibson
13 Dunn.

14 If you want to look at timing of things, that's when it starts.

15 THE COURT: Well, that's kind of --

16 MR. CONNOT: They start without authorization, the board
17 never even voted on it.

18 THE COURT: Right, kind of, but here's my point. And I think
19 both of you might be missing this. We have all these allegations, all
20 these arrows being -- from both sides, right?

21 And but yet, everyone wants me to make a monumental
22 decision that potentially can control the outcome of this business, right,
23 number one.

24 Number two, who does it impact? It impacts the Board.

25 MR. CONNOT: Sure.

1 THE COURT: It impacts not just the board, but employees,
2 shareholders, and all these things. I kind of get it.

3 And I don't mind saying it. I don't mind making monumental
4 decisions. Heck, I've made some big ones, but my point is this. I
5 always think about the impact of my decisions and number one.

6 Number two, what are the facts? What's the appropriate law?
7 Always come back to that.

8 MR. KEMP: And Judge, you know, he keep talking about this
9 July 8th meeting. At the July 8th meeting, Mr. Colucci voted for Mr.
10 Farnsworth to be the co-CEO.

11 Mr. -- five weeks ago, Mr. Colucci exercising his fiduciary duty
12 as a board member said Mr. Farnsworth should be the co-CEO with Lisa
13 King.

14 He voted for that, okay? He voted for that five weeks ago.
15 What changed? What changed is on July 17th, nine days later, Mr.
16 Vanderbilt contacted Gibson Dunn to do the independent investigation.

17 So five weeks ago, Mr. Colucci thought it was great for the
18 company to be running as the way it's been run for the last two years.
19 And then, when the independent investigation started, that's when all
20 these problems started, Your Honor.

21 So that's why we think the status quo should be what Mr.
22 Colucci voted for. He voted for it five weeks ago. He voted to continue
23 Lisa King as the Chief Executive Officer and Mr. Farnsworth as the
24 co-CEO. And you know --

25 MR. CONNOT: The --

1 MR. KEMP: It just seems to me, excuse me.

2 MR. CONNOT: [Indiscernible.]

3 MR. KEMP: It just seems to me that pretty simple issue here,
4 you know. If we have a bad penny, let's find out. If we don't, great.
5 Simple issue.

6 MR. CONNOT: And, Your Honor, there's a whole lot to that
7 timing issue that's left out there. I mean, it is interesting that July 8th,
8 this meeting on one hour notice. It was an invalid meeting.

9 And then, suddenly, when there's a flurry of board meetings in
10 the midst of it, it's suddenly on July 17th, we have to do this investigation
11 of Mr. Colucci.

12 I mean, before that, there was no issues with Mr. Colucci. Mr.
13 Colucci was perfectly fine to be a director of this company.

14 You know, somebody that they want to call a telemarketer that
15 they then turn around and make a director of a company of this size?

16 I mean, that seems incredulous that they're going to, you
17 know, impugn him on one hand, and on the other hand, you know, we
18 felt confident enough in him to make him a director of this company.

19 But all of that aside Your Honor --

20 THE COURT: But what I want you to understand, I mean, that
21 comment is not controlling my thought process --

22 MR. CONNOT: I.

23 THE COURT: -- and/or decision making.

24 MR. CONNOT: Okay.

25 THE COURT: Please understand that.

1 MR. CONNOT: Yeah, I get it.

2 THE COURT: I'm looking at it through a different lens. I'm
3 looking at it we have an ongoing apparently successful business, right,
4 generating monies, employing people.

5 You have a board. There's a board issue. I know there's
6 issues regarding the bylaws and following by the laws.

7 For example, 5.5 not letting the Chairman run the meetings. I
8 mean, but my -- but then I come back to and it seems like this. And I
9 don't mind saying this, that potentially the direction that I'm being asked
10 to go as far as decisionmaking in this case would be essentially this, let
11 the judges continue on.

12 And then, I sit back and look at the mandated Rule 65 dealing
13 specifically with issues regarding probability of success on the merits
14 and/or irreparable harm. I should say and irreparable harm. And I'm
15 thinking about all this as I'm reading this.

16 And I'm saying wait a second. Maybe we should slow down
17 little bit and develop the case and the evidence versus argument of
18 counsel. I don't mind telling you that.

19 But continue on, sir.

20 MR. CONNOT: Now, I think, you know, we -- I think I'm not
21 trying to invade on your territory or comments you want to make, Mr.
22 Parker, but I think the issue has been -- this specific issue has been
23 pretty well argued in its allegations and the Court hasn't heard any real
24 evidence on it yet, but you know, with that --

25 THE COURT: That's -- you know what? And that's kind of the

1 point --

2 MR. CONNOT: Yeah.

3 THE COURT: -- I'm really heading to.

4 MR. CONNOT: Uh-huh.

5 THE COURT: You know, I mean, trust me, we have, you
6 know, there's one thing good about this case, we have splendid lawyers
7 involved. We do, you know. And I've heard all of you many, many
8 times.

9 That's -- and so, I listen and there's no question everybody's
10 convincing. But then, I always circle back, okay, what are the true facts,
11 right? That's what I come back to.

12 You know, and lawyers are really great at -- and what lawyers
13 should do, no question they spin facts a little bit, you know, to benefit
14 their client.

15 But right now, I don't have a lot of facts in this [indiscernible].
16 And I'm -- that's what I'm really thinking about. You know, and so, how
17 can I make monumental decisions like this?

18 MR. PARKER: Your Honor, this is I would say a tremendous
19 challenge for the Court, because you do have a lot of information that
20 we've provided. And as of this afternoon, or late this morning, quite a bit
21 of information that Mr. Connot provided.

22 Certainly I would not ever ask this or any other Court in this
23 8th Judicial District to decide something without having the ability to go
24 through the paperwork first, of course, consider the arguments of
25 counsel, and then if necessary take the evidence to some point of

1 evidentiary hearing so the Court would have some fact finding to support
2 a decision.

3 What we do have and what the Court has been faced with
4 about two weeks ago was a TRO that I believe does not fit our rule, Rule
5 65. And it does not fit --

6 THE COURT: Irreparable harm, right? And/or --

7 MR. PARKER: Irreparable harm.

8 THE COURT: -- probability of success on the merits.

9 MR. PARKER: Thank you. I mean, that's what I'm trying to
10 get back to, because that's what this was actually scheduled for.

11 THE COURT: Right.

12 MR. PARKER: Thank you, Your Honor.

13 THE COURT: And after getting all the information, I -- and I
14 was reading some of the facts, then I circle back to the rule.

15 MR. PARKER: That's what I did, Your Honor. And so,
16 yesterday, I started out. And I know Mr. Connot may take some offense
17 to me starting out with the Rules of the Professional Conduct, but our
18 Rule 65 unlike a lot of states is very particular in terms of what your
19 obligations are to the Court.

20 And so, Mr. Connot in the information he gave us today, which
21 you know, all of us here have been trying to go through, indicates in part
22 and this is attached as a declaration from Mr. Goldstein [phonetic], that
23 among other things that the argument before the New York Supreme
24 Court dealt with the location of where cases should be brought for Vinco.

25 And I'm referring to the paragraph 49. This is on page 7 of Mr.

1 Goldstein's declaration.

2 At least Mr. Connot has recognized I'm assuming his office
3 prepared that declaration that there were arguments on the merits in
4 front of the New York Supreme Court judge that dealt with these very
5 same issues.

6 And when you compare your order, the order provided by Mr.
7 Connot's office, to the order that was provided to the New York state
8 judge, they're very similar Your Honor, asking for identical forms of relief.

9 Your Honor asked a few moments ago and no one directly
10 answered the question. What should be the make-up of the board?
11 How do you as a Court preserve the status quo, prevent irreparable
12 harm, consider the success of either party, the probability of the success
13 of either party, and make a decision with only I say a smattering of
14 information without any true sworn testimony?

15 You have declarations, but it's not in front of the Court. And I
16 know the struggle, Your Honor. And when I consider that --

17 THE COURT: Well, that's why I asked the ultimate. I mean, I
18 look at this and I see some complex factual issues. I don't think the
19 cases is as complex from a legal perspective.

20 But I have -- I mean, from a historical perspective, I mean, I've
21 had a lot more documents, but still there's a lot of here. And there's a lot
22 of exhibits.

23 But more importantly, what I don't have is this. And I have
24 declarations. And declarations are fine, but as we know, declarations
25 don't always withstand rigorous cross-examination.

1 MR. CONNOT: That's right.

2 THE COURT: We know that, right?

3 MR. PARKER: We do.

4 THE COURT: And so, I'm -- and that's why I asked the initial
5 question. Because I don't mind telling everyone this. I'm concerned
6 about maintaining the status quo and what that really means.

7 I know there was a request to conduct discovery. I mean,
8 discovery's always really important to develop a factual record.

9 And at the end of the day, and I know you know this, Mr.
10 Parker, because I mean, I always look at cases in this regard. Whatever
11 decision I make, I try to follow the law, the rules and the like, but I also
12 look through it through lens of would this case withstand appellate
13 review?

14 MR. PARKER: Absolutely.

15 THE COURT: I mean, that's one of -- I always sit back.
16 That's how I try to sit back objectively, and say, oh, okay, before I pull
17 the trigger, let me sit back. Do we have an adequate record developed?
18 Right? That's one of the first things I do, you know.

19 MR. PARKER: That's right.

20 THE COURT: And okay, make sure I understand the facts.
21 Am I applying the appropriate law or standard?

22 MR. PARKER: And Your Honor, and that's why you've been
23 so successful in being -- having your cases affirmed, because you look
24 at it from both -- well, you've been a practitioner.

25 THE COURT: Right.

1 MR. PARKER: So you understand creating and developing
2 the appropriate record. What we have here and why I decided to get up
3 when I did is because to maintain the status quo, you have to have a --

4 THE COURT: And what does that mean?

5 MR. PARKER: It --

6 THE COURT: Right?

7 MR. PARKER: Absolutely. And --

8 THE COURT: I don't know exactly what that means.

9 MR. PARKER: And it's difficult to know until you go through
10 the information. And I know you're reading here. So I know spent a lot
11 of time between yesterday and today familiarizing yourself with this
12 case, right? I have no doubt in my mind.

13 But I know also know you knew the rules and you know the
14 case law around -- surrounding TROs and permanent injunctions.

15 So when it comes to Ms. King and Mr. Vanderbilt, they were
16 board members when everything transpired. They weren't allowed to
17 vote.

18 They were not allowed to -- Mr. Vanderbilt was not allowed to
19 preside as the Chairman of the Board. And the meeting that Mr. Kemp
20 was speaking of is abomination to the procedural process of any
21 organized meeting, the protocol, the decorum that you'd expect.

22 It's not just a breach of fiduciary duty that this Court's going to
23 be required to look at, but it's also our own conflicts of interest issues
24 that I can't imagine the Court not finding ultimately that Mr. Colucci
25 through other -- his other company, Highway [phonetic] Data, through

1 his wife invoicing this company for over \$215,000 for deals that were not
2 approved by this board, committing to millions of dollars to AI Pro for
3 zero deliverables.

4 Ultimately, I believe that's where the Court will go, but I know
5 the Court's not there yet because we've not presented all of that
6 information.

7 THE COURT: Well, and here's my point when I talk about
8 maintaining the status quo. I don't necessarily mean the status quo and
9 maintaining it reflects the TRO that was entered in this case.

10 MR. PARKER: And that's where I'm going, but we --

11 THE COURT: I mean, I'm not saying that because I have
12 more evidence now. I understand --

13 MR. PARKER: That's right.

14 THE COURT: -- there's a lot of factual disputes and the like.
15 So my -- but at the end of the day, and this is my overwhelming concern
16 is going back to the company, the business organization, the viability,
17 the paying the bills, apparently making -- paying employees until these
18 issues can be resolved.

19 MR. PARKER: And Your Honor, the status quo, when I look
20 at all the cases developed in Nevada, when I -- you know,
21 pronouncements from our Supreme Court, the status quo is supposed to
22 be a shield, not a sword. It's supposed to be a shield.

23 It's supposed to protect the company or the agency or the
24 plaintiff from harm that the Court would otherwise believe would occur if
25 not for the TRO.

1 Conversely, Mr. Colucci has used this as a sword. Firing
2 people, intending to do the RIF. Thank God the Court has put -- has
3 indicated from the bench that that's something that's not going to happen
4 between now and August 22nd.

5 But what we don't have like at this point in terms of the status
6 quo having our --

7 THE COURT: I'm defining the status quo.

8 MR. PARKER: Is defining it.

9 THE COURT: Yes.

10 MR. PARKER: Well, you mentioned up front what is the
11 make-up of this board that we are to come to a status quo position or
12 determine determination? Well, we definitely know that these two
13 Defendants were --

14 THE COURT: You say, well, I thought about it. Can I appoint
15 a receiver?

16 MR. PARKER: Well, you know, we had two ideas on that.

17 THE COURT: You know what I mean?

18 MR. PARKER: I will tell you. We wrestled with the idea, but
19 because there's a cost to the receiver.

20 THE COURT: No, I understand that, I do.

21 MR. PARKER: But we have -- we've asked for and certainly I
22 don't know if the Court has seen this, but we're asking for --

23 THE COURT: I haven't seen that.

24 MR. PARKER: -- the appointment of a special master.

25 THE COURT: I saw that. I saw that.

1 MR. PARKER: Okay. So that's one of the concerns in terms
2 of discovery and handling it on expedited basis.

3 But Your Honor, we do want, and I don't believe this is
4 reflected the proposed order, but we do need a determination of the
5 status quo for purposes of the membership of the board, your ability to
6 prevent any unauthorized board meetings.

7 And we also need a status quo developed in terms of
8 co-CEOs, which we believe going back to what Mr. Kemp said on July
9 8th, Mr. Colucci, and we got to -- we have notes. I don't complete
10 minutes, but we do have notes that Mr. Connot provided yet this morning
11 where Mr. Colucci agreed that Mr. Farnsworth would be the co-CEO.

12 This is the first time because there's no evidence of this that
13 I've seen thus far where between the 8th and the 17th, Mr. Colucci
14 objected to the notice -- notification of the meeting or the vote during the
15 meeting.

16 In fact, he I believe suggested to Mr. Goldstein that Mr.
17 Farnsworth was the appropriate person to be co-CEO.

18 And so, I -- when I looked at this, and we've provided -- this is
19 something that I'm not just arguing, but we added this to the declaration
20 of Mr. Vanderbilt.

21 And it's the actual letters between Mr. Vanderbilt as the Chair
22 to the board members. Then Mr. Goldstein's letter to Gibson Dunn.
23 Then Joseph Warren's [phonetic] letter from Gibson Dunn withdrawing
24 because of what I consider to be coercion on the part of Mr. Goldstein,
25 and all of the documentation leading up to these unauthorized board

1 meetings after the fact.

2 And so, what Mr. Kemp was trying to articulate is between the
3 8th and the 17th, the only thing that changed was this interest in getting
4 a full vetting done of Mr. Colucci.

5 Now Mr. Colucci may be found completely innocent. Perhaps
6 his wife's invoicing of \$215,000 through I-Bar [phonetic], perhaps that's
7 not a violation that would disqualify her. I doubt it, but perhaps.

8 Perhaps him charging \$100,000 through his own
9 company -- for his own company related to EDC, perhaps that's not a
10 violation that would disqualify him.

11 Perhaps allowing AI Pros potentially to have stolen IP
12 information from Vinco while paying AI Pros over a million dollars and
13 then supporting paying them more than that, perhaps that's not a
14 disqualification.

15 But I believe a full vetting will tell us one way or the other. And
16 until then, Your Honor, is it appropriate to have someone with those
17 issues be a part of this board?

18 Originally, my ask was that the true status quo was June 9th,
19 2022 before Mr. Colucci became a board member. That to me would be
20 the true status quo because before then, and we provided this as an
21 exhibit, the value of the company was higher. There was this chaos that
22 they complain about in their moving papers was not there.

23 There was no indication of some significant RIF. I don't see
24 the downside of going back to June 9th, 2022, the day before Mr.
25 Colucci came on board.

1 For purposes of our motion, and that's why we're here today,
2 Your Honor, I think the only thing that we need to do in terms of that
3 proposed order is we definitely need to have Ms. King and Mr.
4 Vanderbilt have full participation in the board. I think Mr. Farnsworth
5 should return as a co-CEO.

6 And I think we have to put the brakes on any corporate
7 changes in terms of employment, especially this self-dealing it appears
8 contract that Mr. Colucci has devised for himself where he's gone from
9 being paid as a board member to being an employee, and any other
10 transactions with AI Pro.

11 MR. CONNOT: Your Honor, there's a lot of allegations and
12 argument. And now, we want to roll this back to June. Okay, there's no
13 dispute. And I stated yesterday that Mr. King and Mr. Vanderbilt are
14 currently board members. There's a process to remove a board
15 member.

16 Mr. Colucci's a board member. Mr. Distasio's a gold -- a
17 board member and Mr. Goldstein are board members. This company
18 has five board members, five board members.

19 And they make an allegation. They make an allegation that's
20 unfounded. And we'll present the evidence to show why it's unfounded,
21 that somehow, you know, Mr. Colucci may not be independent under the
22 NASDAQ rules, but that does not remove him as a director of the board,
23 Your Honor.

24 And so, we have five directors in this company. Five directors.
25 And you want to talk about the timing of things. I hear, well, these

1 unauthorized board meetings.

2 Yeah, they don't want to recognize what the July 8th board
3 meeting was other than an unauthorized board meeting. They can't
4 defend it. It was on one hour's notice. One hour's notice.

5 And so to come in here. And that's what spun this whole thing
6 out of control. And you'll hear the minutes of the July 24th or the
7 recording of the July 24th meeting where constantly, constantly, Mr.
8 Vanderbilt was shouting and interrupting and refused to participate. And
9 he mute and unmute it, because it was an attempt to control some sort
10 of decorum at this meeting.

11 And so, you got a situation here where, yeah, what do they
12 want for the status quo? Status quo is take Mr. Colucci off the board
13 with zero evidence, an allegation, zero evidence that he did anything
14 wrong.

15 And so, the Court hadn't heard any evidence yet as to what he
16 did wrong. And so, you know, now we see what the real power play and
17 the stretch is here.

18 They don't like the situation. You know, they did not have the
19 adequate number of votes. Ms. King and Mr. Vanderbilt were outvoted.
20 Okay? That's how the world works. That's how elections work, whether
21 it's politics, whether you're running for judicial office. Whether you're on
22 a board and it's a majority rule. That's what happened on July 24th.

23 It was a proper meeting. Mr. Colucci until found otherwise is a
24 director just as Mr. Vanderbilt, Ms. King, Mr. Goldstein, or Mr. Distasio
25 are board members until found otherwise or voted out by the

1 shareholders.

2 And we have an upcoming shareholder meeting, Your Honor.
3 So I mean, we sit here now getting into a lot of arguments and
4 allegations.

5 THE COURT: But I mean, how much power can we -- here's
6 my question. We have an upcoming shareholders meeting, but how
7 much power would a shareholders really have in this case in light of the
8 current business posture?

9 MR. KEMP: Yeah, none of the board members are up for
10 consideration at the upcoming meeting, Your Honor. So that's a false
11 promise.

12 THE COURT: Yeah.

13 MR. PARKER: In fact, I believe not until October, Your Honor.

14 THE COURT: Yeah, but my point is.

15 MR. PARKER: It may not be a company around by then.

16 THE COURT: That's my point.

17 MR. PARKER: Exactly.

18 MR. CONNOT: Well --

19 MR. PARKER: And that's the purpose of the TRO. It's a
20 shield.

21 THE COURT: And understand this, Mr. Connot, I'm not
22 saying you're not right. I'm looking at through this lens. I want the case
23 to develop factually. I do.

24 MR. CONNOT: Absolutely.

25 THE COURT: But I want to make sure it's an ongoing

1 concern without any decisions made that rise to the level of being
2 terminal, right?

3 I mean, I wanted to keep going ongoing and those decisions
4 potentially to be made later. What the ultimate solution should be, I'm
5 not sure yet. I have some ideas.

6 MR. CONNOT: Okay.

7 THE COURT: But that's my big concern because I want to
8 make sure we can have enough time -- because I don't want to make a
9 decision that one way or the other, yet that impacts this organization.

10 MR. CONNOT: Without evidence from the witness stand and
11 properly coming in, Your Honor.

12 THE COURT: Right.

13 MR. CONNOT: Absolutely.

14 THE COURT: And so, and just as important opportunity to
15 develop it. And so, I don't know what would be quote the status quo
16 right now. I have thoughts on it, but how about this? Does this make
17 any sense? Maybe you Mr. Kemp, Mr. Parker, and so on, you go to the
18 ante room and talk about it for a few minutes. If you can't, then you can
19 make suggestions to me.

20 MR. PARKER: Would that be, Your Honor, and I've seen you
21 do this before. You've allowed counsel to create a document. And then,
22 you -- we send it to you in Word or WordPerfect, however you like it.

23 THE COURT: In a general sense, I don't mind saying if
24 everybody agrees, then I typically don't get involved.

25 MR. PARKER: Right.

1 THE COURT: Unless it's a blatant violation of the rule of law,
2 and if I have a question on it, right? But that doesn't happen very often.
3 But and so, if everyone agrees, I tend to go with it.

4 But I just want everyone to understand, that's my concern. I
5 haven't -- I understand there's two sides to it, right, but my primary
6 concern now is the ongoing viability of the business of the corporation
7 until the facts can be thoroughly vetted and decisions made based upon
8 bylaws, you got corporate law, all those types of things.

9 MR. PARKER: I appreciate that, Your Honor. We certainly
10 can sit down together and try to put a document together for the Court
11 where we can indicate things we agree to. And then, indicate where
12 there's a different. And the Court can devise or fashion the appropriate
13 order. The --

14 THE COURT: No, no, I don't want to write orders. Somebody
15 would be charged with that and I'd review it. It might take you -- it could
16 be next week with as much work as I have to do.

17 MR. PARKER: My concern is when I say the order, Your
18 Honor, I've seen judges just like the New York Supreme Court judge --

19 THE COURT: Well, I understand.

20 MR. PARKER: -- put into a --

21 THE COURT: But here's my thought, see, for example, if you
22 can agree on principle on certain key issues, and others you don't
23 maybe I'll make those, I'll break the tie on that.

24 MR. PARKER: Sounds good, Your Honor.

25 MR. CONNOT: Yeah, that makes sense.

1 THE COURT: Mr. Connot?

2 MR. CONNOT: As long Mr. Kemp and Mr. Parker don't get a
3 vote, each time and I only have one. Not --

4 THE COURT: No.

5 MR. CONNOT: I understand what you're saying, Your Honor.
6 That was a sad attempt at humor.

7 THE COURT: [Indiscernible.] So how about this? Maybe I
8 should step down for a little while and when you're ready?

9 MR. KEMP: And Judge, what about the other little
10 housekeeping matters? We're asking for the expat discovery and the
11 special master?

12 THE COURT: Well, I think -- well, we haven't talked about a
13 special master, but I think we do need discovery probably expedited,
14 right?

15 MR. KEMP: Right.

16 THE COURT: Whether there's a need for special master or
17 not, of course if you agreed on that, I would agree, you know.

18 MR. KEMP: The reason I think there's a need for a special
19 master, Your Honor, is not that we can't work through the discovery, but
20 a lot of these where this is going to be out of state of Nevada and some
21 of them potentially even outside of the country.

22 And I think that's why you're going to need a special master
23 because there's people -- a lot of people in New York, a lot of people in
24 Florida. Mr. Yang, who's in the courtroom today, is I understand in
25 Canada and his business is in the Philippines, but there's a lot of people.

1 And I think a special master would be helpful in that regard, Your Honor.

2 THE COURT: All right.

3 MR. KEMP: And especially order of discovery because I
4 imagine we're going to want to take 30, 40 depositions. I would think they're
5 going to want to take 30, 40 depositions. That's a lot to do before a
6 preliminary injunction hearing, which you know, I'm just assuming the
7 Court's going to give us one some time somewhere --

8 THE COURT: I'll give you one, you know.

9 MR. KEMP: Yeah, but so that's why we --

10 THE COURT: Yeah, I want to give everybody input. Mr.
11 Connot, whatever you need.

12 MR. KEMP: That's the only reason we thought -- we propose
13 a special master. We haven't presented any names because I haven't
14 talked to opposing counsel about any names, but.

15 THE COURT: I mean, you have Peggy Lane [phonetic]. You
16 have Boris Rachel [phonetic]. You know those are some of the main
17 individuals that kind of -- from what I understand now because I
18 understand Judge Leung [phonetic] is doing now too this year.

19 MR. CONNOT: She is over at the jail.

20 THE COURT: Yes. You know, what's wonderful -- what I
21 really like about Mr. Hill, I mean, I've used him on some really big cases
22 before. And I think what he's really good at is turnaround time.

23 MR. CONNOT: Well --

24 THE COURT: Because he's one of those that can make a
25 decision and you walk out. By the time you get back to your office,

1 there's an order sitting there, you know, which is little different than -- I
2 mean, to be candid with you, I don't know anybody else that does that
3 [indiscernible] like that.

4 MR. KEMP: Yeah, well, he monitors the docket so.

5 THE COURT: Oh, he does.

6 MR. KEMP: Yes.

7 THE COURT: Yes, he's a different level guy. I don't -- he
8 loves to go for a swim every morning, but other than that, he lives what
9 he does. There's no question about it.

10 MR. KEMP: Well, in any event, Your Honor, we think we need
11 expedited discovery and some special master who we don't we haven't
12 proposed.

13 THE COURT: I'll give you guys a chance to talk about that.

14 MR. PARKER: Thank you, Your Honor.

15 THE COURT: Okay, I'll sit down.

16 [Recess taken at 2:34 p.m.]

17 [Proceedings resumed at 4:24 p.m.]

18 THE MARSHAL: Please be seated.

19 THE COURT: All right, let's go ahead and set forth our
20 appearances once again for the record.

21 MR. CONNOT: Certainly, Your Honor. Mark Connot, Rex
22 Garner, John Orr on behalf of the Plaintiff. Also present is John Colucci
23 and Adele Hogan, who has -- in the process of submitting a -- I think
24 actually he submitted the OST pro hac today.

25 THE COURT: Okay.

1 MR. CONNOT: On behalf of Plaintiff, Your Honor.

2 MR. KEMP: Your Honor, Will Kemp for Defendant
3 Farnsworth.

4 UNIDENTIFIED SPEAKER: Appearance?

5 MR. PARKER: Oh, I'm sorry, Your Honor, Theodore Parker
6 on behalf of Ms. Lisa King and Mr. Rod Vanderbilt.

7 MR. RULIS: Good afternoon, Your Honor, Nate Rulis on
8 behalf of Defendants Farnsworth and Noble.

9 MS. ZORNES-VELA: Good afternoon, Your Honor, Madison
10 Zornes-Vela on behalf of the Defendants Farnsworth and Noble.

11 THE COURT: All right.

12 MS. ZORNES-VELA: Okay.

13 THE COURT: And you can update me on the status. I see
14 there's a copy of a stipulation and order that was submitted to me just
15 moments ago. And I would anticipate there might be some agreements
16 and some disagreements.

17 MR. KEMP: Yeah, Judge --

18 THE COURT: As far as the content, is that it?

19 MR. KEMP: Now, Judge, pages 1 and 2 I think were agreed
20 to. I think the first disagreement's on page 3, the last page.

21 MR. CONNOT: Although I would say, Will, just to make sure
22 because I don't think this has [indiscernible].

23 MR. KEMP: Oh, yeah I thought -- I think the new one.
24 Because the one [indiscernible] under 3?

25 MR. CONNOT: It does not, but --

1 MR. KEMP: Okay.

2 MR. CONNOT: Yeah, Judge.

3 MR. KEMP: Bottom of page 3, yeah, counsel brought to my
4 attention the fact that there's some language advance on a loan that
5 should be added to, which -- or report, excuse me, which we've agreed
6 to do, but it's not in your draft.

7 MR. RULIS: So where it says Plaintiff agreed, stipulation
8 agrees to pay Lomotif \$710,000 on or before August 18, 2022, I will be
9 treating as an advance on the loan.

10 [Counsel confer]

11 MR. RULIS: Okay, so we'll pay it to ZDD.

12 UNIDENTIFIED SPEAKER: Okay.

13 MR. RULIS: Which is where the payment is coming to.

14 MR. KEMP: That's fine with us.

15 MR. CONNOT: That's fine.

16 MR. RULIS: Yeah payment will be paid to ZDD.

17 MR. KEMP: Okay.

18 [Counsel confer]

19 MR. KEMP: Your Honor, so 4 and 5 are the points of
20 contention at this point. So 4, what we proposed is that they wouldn't
21 hold any board meetings unless there's 48 hours', written notice, and
22 there's unanimous agreement of the board members. The parties agree
23 to the board members.

24 And we agree that we would not withhold consent in the event
25 of the emergency. And in the event that they really need a board

1 meeting, we withhold consent, they have the right to come to Court and
2 ask the Court to authorize the board meeting.

3 So that's the proposal I thought was agreed to, but I guess it's
4 not now, but I think that's a reasonable decision because right now, it's
5 48 hours. And we just want to stop this thing where everyone -- notices
6 the board meeting.

7 MR. CONNOT: And the specific issue there, Your Honor, is
8 the major lender, the Hudson Bay that's been mentioned previously, the
9 \$80 million dollar note.

10 There's a restructuring proposal that's just been circulated all
11 the board members. And it's just been and those discussions were
12 ongoing this week.

13 And there's this proposal was received today. My
14 understanding is this afternoon and has just [indiscernible] all the board
15 members, the company would like or the other three board members
16 would like to have a board meeting this evening because there's a --

17 UNIDENTIFIED SPEAKER: What's the drop?

18 UNIDENTIFIED SPEAKER: That date on this [indiscernible].

19 UNIDENTIFIED SPEAKER: Wanting it tonight.

20 MR. CONNOT: They're wanting a response tonight.

21 UNIDENTIFIED SPEAKER: Or the company could be
22 bankrupt tomorrow.

23 MR. KEMP: So, Judge, it's 5:00. They haven't shown us what
24 the proposal is. They said they emailed it to us. We still don't have it.
25 Does anyone have a meeting tonight by midnight? I mean --

1 MR. CONNOT: Well, you've got major lender.

2 MR. KEMP: Kind of shows you --

3 MR. CONNOT: Sorry.

4 MR. KEMP: Kind of shows you what's been doing on, Your
5 Honor. But I would submit we use the language as we drafted it. You
6 know, Mr. Farnsworth has excellent relationships with this particular
7 lender. He was actually the one that negotiated the loan. And I don't
8 know what the terms are, but I can't believe that Mr. Farnsworth's
9 participation wouldn't help this transaction get resolved.

10 So you know, and I like I said, we don't know what the loan
11 terms or what.

12 UNIDENTIFIED SPEAKER: Yeah.

13 MR. CONNOT: So on that specific issue, Your Honor, to say
14 they can't believe it just came up, the default came on Monday of this
15 week. And you know, it's our position as a result of the actions of the
16 Defendants, but that aside, the default notice was issued on Monday.
17 This has been in a whirlwind this week not just with what's going on here
18 in Court, but the company itself.

19 That email was just sent out to all of the board members.
20 None of the other board members other than Mr. Colucci, because he's
21 also the CEO at CNAP [phonetic] okay until just within you know, it's
22 only been received by the company within the last -- this afternoon.

23 And so, that's why there's a need for a board meeting this
24 evening. We have no issue with Mr. Farnsworth. You know, certainly
25 doesn't have a vote, but you know, whatever his relationship may be

1 with Hudson Bay being involved in this discussion and this board
2 meeting to the extent the Court wants to have him involved, certainly on
3 our side, there's no objection to that. So I think we can accomplish that,
4 but there's -- there is a need to have a board meeting tonight. .

5 UNIDENTIFIED SPEAKER: [Indiscernible.]

6 MR. CONNOT: Your Honor --

7 MR. KEMP: Judge, come on, just a major transaction.

8 THE COURT: No, well, you know, and I'm going to share with
9 you my thoughts because I was sitting here listening. And I'm looking at
10 the language. And it appears to me the big issue is this notice of default
11 and potentially the note being called. I understand that.

12 And so I'm sitting here saying to myself, okay, two things.
13 Can't we have a carve-out for that meeting, but before action is
14 formalized, we have a status check tomorrow morning at 9:00 and tell
15 me what's the proposal?

16 MR. PARKER: Your Honor, I was going to ask -- you read
17 minds I'm sure all of our minds, but your TR --

18 THE COURT: That makes sense, right?

19 MR. PARKER: It does. But your TRO says, and this is what
20 I -- I cannot reconcile Mr. Connot's comment when the TRO that he
21 prepared says item 180 for the duration of this TRO, the Defendants,
22 these three individuals here, are enjoined from holding themselves out
23 internally or externally of course with the bank, as employed by company
24 or acting on its behalf in any capacity.

25 And yet, they now say that this was sent out on Monday.

1 Didn't let us know on Monday. We get this right before Your Honor
2 came and took the bench, we were told that they were sending it to us.

3 And now, they want these three people, one who raised all
4 rights of coming in the first place and the two board members, the chair,
5 Mr. Vanderbilt, that turn on a dime to make a decision about a \$33
6 million loan.

7 MR. CONNOT: It's actually \$80 million.

8 MR. PARKER: 80 million I'm sorry. \$80 million loan.

9 MR. CONNOT: The notice --

10 UNIDENTIFIED SPEAKER: 96 million.

11 MR. PARKER: Now it's a 96 million loan, Your Honor.

12 MR. CONNOT: It's an \$80 million loan --

13 MR. PARKER: So --

14 MR. CONNOT: --and \$16 million penalty. And the notice of
15 default was just received on Monday.

16 MR. PARKER: And.

17 MR. CONNOT: Not this [indiscernible].

18 MR. PARKER: So Mr. Connot, let me basically --

19 THE COURT: But gentlemen, you have to understand. I'll
20 listen to everybody.

21 MR. PARKER: Thank you, right?

22 THE COURT: But here's my point. And I'm concerned about
23 the economic viability of the company. If there's a notice of default. I'm
24 concerned about that.

25 But just as important, I realize there has to be some action

1 potentially, but I'm sitting here saying in a general sense, I have no
2 problem with the -- with paragraph 4.

3 And if we have a concern about an opening called in the sum
4 of -- including penalties of \$96 million, it seems to me why can't you
5 make a decision, come in, Mr. Farnsworth participates in the meeting.
6 He can make a decision and say, yes, this is a problem. He can report
7 back tomorrow. And then, I can make a decision.

8 MR. PARKER: Your Honor, we are suggesting --

9 THE COURT: That's why this is business court, right?

10 MR. PARKER: Exactly, we're suggesting a --

11 UNIDENTIFIED SPEAKER: That's good.

12 MR. PARKER: -- a rescinding of the TRO as it pertains to this
13 issue and as it pertains to these two board members participating.

14 And that's why I cannot for the life of me understand how Mr.
15 Connot's clients can want them to participate when they choose to and
16 then hold them at bay when they choose to.

17 THE COURT: Because at the end of the day --

18 MR. PARKER: Makes no sense.

19 THE COURT: And tell me if I'm wrong or not. I mean, I don't
20 know anything about the terms and conditions of the note other than it
21 appears to be in excess of 80 million with a \$16 million penalty. See I
22 listen, sir.

23 But anyway, it seems to me if that's an issue, that should be
24 resolved immediately, right?

25 MR. CONNOT: Yeah, we don't need to rescind the TRO.

1 They want to roll back the entire TRO. I sent an email last week to their
2 counsel the same counsel that accepted service. Said look, they remain
3 as board members. Tell me how you want to communicate? Crickets,
4 Your Honor.

5 So to sit here and come in here, well, we didn't understand.
6 They had every opportunity. So I mean, let's move past the bluster and
7 all of that and focus on what the issues are as the Court has noted.

8 THE COURT: And as far as issue number 4 is concerned, I'm
9 looking here and I understand your issues, sir, I do. And my point is this.
10 We can have a carve-out for that.

11 MR. CONNOT: Okay.

12 THE COURT: And we can under the conditions that I set
13 forth.

14 MR. CONNOT: Yes.

15 THE COURT: Sir, you can participate, so you have just make
16 sure what's going on. And it's -- I guess it gives you some sort of
17 confidence or whatever that it's appropriate. That's fine.

18 And then, tomorrow morning at 9:00, we can meet. You can
19 report back to me exactly what it is. And then, it's taken care of because
20 I don't want to the note called.

21 UNIDENTIFIED SPEAKER: Okay.

22 THE COURT: There's no objection to that, Mr. Kemp.

23 MR. KEMP: What language should we use for the carve-out?

24 THE COURT: I guess language --

25 MR. KEMP: This not apply to the --

1 THE COURT: -- specifically related to the potential call of the
2 note in the sum of \$80 million.

3 MR. KEMP: This should not apply to the Hudson Bay.

4 MR. CONNOT: The Hudson Bay.

5 MR. KEMP: Default?

6 MR. CONNOT: Default.

7 THE COURT: Yes, you know what it is better than I do, sir.

8 MR. KEMP: Yeah. Add that, please.

9 Your Honor, the last dispute was 5. And so, they proposed
10 that this order be in effect through Friday. I said 6 -- Mr. Parker said 60
11 days. I said let's just make it 30 days. But I think just keep this in effect
12 Friday is really not what we want.

13 MR. PARKER: We're talking about payment terms, Your
14 Honor, just to make sure the Court understands what we're talking about
15 duration. We don't want to come back to Court every week -- every
16 other week for payroll.

17 So we figured until the evidentiary hearings concluded and the
18 Court makes a final decision, that this -- these terms should govern as a
19 stipulated order or as an order, but not as a restraining order against our
20 clients any further.

21 MR. CONNOT: Well --

22 MR. KEMP: You know, Friday, Your Honor. I mean --

23 MR. CONNOT: -- I think with this, Your Honor, I think the
24 Court has sort of roadmap. The issue is how long it's going to stay in
25 effect. The other -- this Court has the authority to Friday comes around

1 and you're like I think I'm going to extend this for another 3 days, 5 days,
2 10 days, 30 days at that point.

3 But at this point, before you heard a shred of actual evidence
4 or testimony, you know, to say, oh, I'm going to keep this in place for 30
5 or 60 days to hamstring the company? And under this provision, I mean,
6 I don't think there's a need for that at this point to get us through today
7 and the next two days.

8 And it sounds like that's the one area of disagreement then
9 that we have on this. Have we agreed on everything else in here?

10 MR. KEMP: No, we haven't because we still haven't.

11 MR. CONNOT: Oh.

12 MR. KEMP: We don't agree the restraining orders being
13 continued. We do agree with some parameters being placed, so that the
14 Court can prevent this company from --

15 MR. CONNOT: But we don't need to do that in this order. I
16 think we can do that.

17 MR. PARKER: But this is the time set for your TRO to be
18 considered.

19 MR. CONNOT: Right and --

20 MR. PARKER: And that's what the Court's doing.

21 MR. CONNOT: And we've also got tomorrow's schedule.

22 MR. PARKER: So but Mr. Connot, I'm not here to take the
23 judge's time if it's not necessary. We've given the judge more in I would
24 say evidence, documentary evidence at least, than you did when you
25 asked for the TRO. I think there's enough given to the Court to make a

1 decision that your TRO should be set aside.

2 Now the question is and I think what the judge is trying to
3 determine is the appropriate parameters that's been placed for
4 everyone. That's my belief.

5 MR. CONNOT: What's been provided is a whole lot of
6 documents not much in the way of the evidence.

7 MR. PARKER: More than you've provided, more than you've
8 provided --

9 THE COURT: Well, here's -- and gentlemen, there's always
10 two sides to every story. I get that. Number one.

11 Secondly, and I thought it was pretty clear when we started
12 this journey together today that one thing I won't do, I'm not going to
13 rush to make a decision specifically when it involves the life of this
14 company, right?

15 UNIDENTIFIED SPEAKER: Yes.

16 THE COURT: I'm not going to do that. In fact, I think I
17 pointed out it potentially would be unfair to me as a decision maker,
18 right? Because I'm not going to rush. I mean, if this was a simple tort
19 case, I wouldn't rush, but we're talking about tens of millions of dollars if
20 not more than that.

21 And so, I'm going to be very careful as to how I proceed. I just
22 want everybody to understand that.

23 And so, I understand there's a TRO in place, but at the very
24 outset, and it's been challenged. And then, I always come back to the
25 issues that we talked about under NRCP 65 as it pertains to probability

1 of success on the merits and irreparable harm, right?

2 And so, I'm not sure on that right now because I have two
3 sides. Because remember when I issued it all I was your affidavit.

4 MR. CONNOT: Yes.

5 THE COURT: Now I'm at this point where I don't know if I'm
6 at the probability of success on the merits because there's questions of
7 fact right now.

8 Now all I'm trying to do is accomplish is one task and that's to
9 keep the company healthy. Nothing more, nothing less. I mean, it's one
10 of -- and I want let due process work. That's all.

11 MR. CONNOT: Yeah.

12 THE COURT: Nothing more, nothing less of that. My mind's
13 pretty open.

14 And so, what I'm thinking is this because number one and this
15 is my question, when it comes to evidence, what type of evidence are
16 we talking about?

17 Number two, what's the necessity for discovery? Because I'm
18 going to -- I think whatever language that meets the intent of my carve-
19 out, I have no problem with that.

20 Secondly, as far as the TRO's concerned in this situation, and
21 maybe everybody -- under the facts of this case, I should say, I think
22 potentially everyone misread me in this -- not everyone, but my intent is,
23 look, I'm not giving either side at this point a headstart.

24 You understand what I'm saying? I'm not. I'm just, but I want
25 to maintain the integrity of this company. That's all I'm concerned about

1 right now. And the facts will ultimately determine which direction I go,
2 whether it's going to by permanent injunctive relief one way. There's
3 another request from the Defense and so on.

4 But I'm not even close to that. And so, I'm just looking at it
5 through one lens. And that's why I ultimately started about preserving
6 the status quo.

7 And when I'm talking about that, I want to preserve the health
8 of this company.

9 MR. KEMP: And, Judge, the reason with chose 60 days is
10 two-fold. One, we anticipated, like I said before, that there be 20 or 30
11 depositions on each side. Some short.

12 And we were hoping that we cut a preliminary injunction
13 hearing before Your Honor sometime in September. So today being
14 August 17th, we thought 60 days would take us to September 17th.

15 UNIDENTIFIED SPEAKER: October 17.

16 MR. KEMP: Yeah, October 17 that would be plenty of time.

17 The second point is Your Honor, as you know, companies are
18 just pieces of paper and names. It's the employees that make the
19 company.

20 THE COURT: I understand that.

21 MR. KEMP: We thought something that went into effect -- that
22 stayed in effect at least 30, 60 days would be reassuring to the
23 employees.

24 And because just because they're getting one more paycheck
25 on Friday doesn't mean they're not going to start looking around. You

1 know, I would, if I saw, you know, a significant shareholder or corporate
2 suit, I would probably listen to other offers.

3 But anyway, that was our thought process in these 60 days,
4 Your Honor. That's why we submit 60 days.

5 MR. CONNOT: And the start of this whole discussion was
6 about getting employees paid. You know, that's resolved here. This is
7 not a discussion to resolve the TRO issues, dissolve the TR -- or
8 dissolve the TRO.

9 I mean, it was let's get this done, get to evidence, start to put
10 on testimony so the Court can actually hear some testimony and know
11 what's going on here and get a sense and a flavor of actual evidence
12 and testimony, not attorneys' arguments, not spin on facts, not
13 allegations, but actual testimony from the witness stand and explain
14 some of this stuff. So --

15 THE COURT: And I -- and that's due process. But here's my
16 question. And I think this is very important to really focus on. Are we in
17 the position today to accomplish that task?

18 And what I'm talking about tomorrow, yeah, we can put a few
19 people on the stand, but there are -- it appears to me there's a myriad of
20 factual issues here, right?

21 I realize in a general sense July 18th -- July 8th might be an
22 important date. I get that, but there's a history here.

23 And so, how can I make the ultimate decision based upon a
24 four-hour hearing, preliminary injunction hearing?

25 Mr. Kemp talks about 30 depositions. I don't know if that's

1 necessary, but 30 depositions is a lot of depositions, right, that is. You
2 know, and that's a lot of depositions.

3 But who am I to say they're not required or necessary? I
4 mean, I don't know the facts of this case, right? And it may be in many
5 respects, maybe the lawyers don't know all the facts of this case
6 because typically you don't know all the facts until after the close of
7 discovery, right, we just don't know. And so, there's one side and there's
8 another side.

9 I'm looking at it through a different lens, not favoring either
10 side. I just want to make sure. And when I say maintain the status quo,
11 I'm more focusing on making sure this is an ongoing entity until I can
12 make sure there's a decision. Nothing more than that.

13 MR. PARKER: Originally, Your Honor, I still have -- because I
14 was concerned with the case law that the Supreme Court has handed
15 down for direction and instruction to the district court.

16 And it seemed to me that Mr. Connot continues to place the
17 cart ahead of the horse. He's suggesting that this Court should maintain
18 a TRO, but the Court had less evidence, less information.

19 THE COURT: I mean, I get that, Mr. Parker.

20 MR. PARKER: Thank you. Thank you.

21 THE COURT: I understand that.

22 MR. PARKER: And so, it makes no sense and again.

23 THE COURT: Because this is an ex parte application.

24 MR. PARKER: That's right.

25 THE COURT: I've got nothing from anybody.

1 MR. PARKER: Exactly.

2 THE COURT: And that's why at the very outset, I talked about
3 maintaining the status quo is maintaining the health of this business.

4 MR. PARKER: Thank you. And when you said that, Your
5 Honor, I wrote it down, I wrote it down right here because whatever the
6 Court does, it's not like you said before, it's not hear to preserve a TRO
7 for purposes of preserving a TRO. You're actually --

8 THE COURT: That would -- maybe be that would be
9 appropriate under a preliminary injunction setting where we've got a
10 complete --

11 MR. PARKER: You've had someone sit in that stand.

12 THE COURT: Right.

13 MR. PARKER: Absolutely, but at this point, certainly, this
14 Court has been given more information than Mr. Connot provided when
15 the Court issued the ex parte TRO.

16 And certainly, the Court also recognizes the value of this
17 company monetarily as well as the value of keeping these employees.
18 And so --

19 THE COURT: Well, that's what I really recognize is this
20 because I mean, I don't know -- I haven't heard evidence as to the value
21 of the business, right, but I would anticipate based upon some of the
22 long figures that were just raised, there's a probability that investors
23 have made significant investments in this company. I know that.

24 I don't know if it's 2 -- 100 million. I don't know if it's 500,000
25 million. I mean, I don't know what level, but it's a lot.

1 MR. PARKER: Mr. Farnsworth raised 400 million.

2 THE COURT: 400 million. I mean, and so, and you know in
3 many respects, it doesn't really matter if was 4 million or 400,000. It's a
4 lot of money to people. It really and truly is from an investment
5 perspective because sometimes I deal with small businesses.
6 Sometimes I have Caesars or MGM or somebody like that in here. This
7 varies you know.

8 And sometimes I'm dealing with 2 billion claims. I don't mind
9 saying that. That is true.

10 MR. PARKER: Yes, Your Honor.

11 THE COURT: Right? And --

12 MR. PARKER: And so.

13 THE COURT: All moneys important to everybody. It just is.

14 MR. PARKER: Yeah, and all the jobs are important.

15 THE COURT: They are. I get it.

16 MR. PARKER: And so Your Honor, when you look at the
17 Department Of Conservation versus Natural Resources, the 121 Nev.
18 77. That's a 2005 Nevada Supreme Court case, as well as the
19 University of Community College System Nevada versus Nevadans for
20 Secured and Sound Government, which is a 2004 Nevada Supreme
21 Court. Then the case that everyone always mentions, the Dixon versus
22 Patrick case in 1987, Nevada Supreme Court case, it all indicates the
23 criteria for granting a TRO.

24 We have given this Court a lot more information leading up to
25 today. And we got information of course from Mr. Connot late this

1 morning or early this afternoon, some of which I believe support our
2 position that the TRO originally granted was not appropriate.

3 It was overbroad in restricting Ms. King and the shareholder
4 board Mr. Vanderbilt. And it set aside the person most instrumental in
5 raising the money for this company.

6 There's certainly enough evidence here, I would think that the
7 likelihood of success does not weigh in favor of the Plaintiffs in this case.

8 It's still questionable whether or not Mr. Colucci has standing
9 to bringing this case in the name of Vinco Ventures. So I would ask --

10 THE COURT: And I will say this. And I don't necessarily look
11 at it in that regard, because my thoughts are slightly different from yours,
12 Mr. Parker.

13 MR. PARKER: Uh-huh.

14 THE COURT: And I will say this that when I granted the TRO,
15 I did weight one of the factors, probability of success on the merits.

16 MR. PARKER: Uh-huh.

17 THE COURT: Now after you and Mr. Kemp have brought in
18 other evidence and other affidavits and things like that, instead of being
19 kind of like this, we're kind of back here --

20 MR. PARKER: Right.

21 THE COURT: -- where I can't say as a matter of law there's a
22 probability of success on the merits because we have competing
23 evidence here. And at the end of the day, I'm going to have to weigh
24 and balance the evidence.

25 MR. PARKER: Oh, of course.

1 THE COURT: And so, I can't say that.

2 MR. PARKER: That's right.

3 THE COURT: And as we all know, as a foundation to Rule
4 65(c) relief, there has to be a probability of success on the merits.

5 And secondly, there has to be irreparable harm. And I know
6 everyone here knows that.

7 MR. PARKER: Right.

8 THE COURT: You know, but --

9 MR. PARKER: Given what you just said, Your Honor, given
10 what you just said, because you did weigh as I know you follow the
11 rules. And I know you follow the Nevada Supreme Court
12 pronouncements on this issue when you made your decision.

13 And just like you just said, the information you've been given
14 now has changed the lens that you're looking through or at least what
15 you see through that lens.

16 And the other part of the case law that I just cited says that in
17 addition to the reasonable probability that the -- there has to be a
18 thought that the nonmovants conduct will cause irreparable harm if
19 allowed to continue.

20 We've seen the harm caused by the Plaintiffs since August
21 8th. And to create and determine I should say what the status quo is,
22 but that's where you started this conversation today, what is the status
23 quo and how do we protect it?

24 We know that from August 8th until the present, we've had at
25 least two board meetings where these two board members were not

1 allowed to participate and that includes the Chair of Board.

2 We know that as of Monday, there was a loan default
3 notification that these two board members were not made aware of.

4 We know we sit on the precipice of a default that we just made
5 aware of this afternoon. They have used and I take this from -- this word
6 from Mr. Rulis. They have weaponized that TRO.

7 It should not be allowed to stand. We have done our best.
8 Mr. Kemp and I, have done our best. I'm not saying -- Mr. Connot
9 worked hard in the ante chamber over there because I believe he has as
10 hard as he could, but I will tell you this TRO based upon Nevada law and
11 Rule 65 should not be allowed to stand.

12 And I suspect that we'll be submitting competing orders to the
13 Court. And I don't know how tomorrow helps because I don't know if the
14 Court's going to allow us to put anybody on the stand tomorrow, but if
15 we're not, if it's just argument and references the case law and the rules,
16 and the --

17 THE COURT: And the thing about that is I don't need help on
18 that issue.

19 MR. PARKER: That's right.

20 THE COURT: I don't need that.

21 MR. PARKER: You don't.

22 MR. CONNOT: Right.

23 THE COURT: I mean, I need help on the facts.

24 MR. PARKER: That's right.

25 THE COURT: And there's a tremendous factual dispute here.

1 And so, I don't know who all the key witnesses are. And Mr. Kemp says
2 we need to take 30 depositions. I'll take him as his word.

3 But maybe at the end of the day, there's 10 key depositions
4 because sometimes you take depositions and I do understand that
5 sometimes the anticipated value doesn't rise to the level that you expect.

6 But you got to go through the process and say and to find out
7 who knows, right? And so, for example, there's no question, Mr. Parker,
8 you focused on an area we've been talking about probability of success
9 on the merits, but then you have the issue regarding irreparable harm. I
10 understand the analysis.

11 MR. CONNOT: Sure.

12 MR. PARKER: That's right.

13 THE COURT: I do and because -- and I don't mind telling
14 everyone this. And this is really what I just really hope and then and I
15 was hoping this was the read.

16 The TRO can't stand in this current form. But I want some
17 sort of stipulation that over the next 30, 60 days that preserves the
18 investment for the investors, preserves the company, preserves the
19 employees, all those types of things that it makes this an ongoing entity.

20 Just as important, and this actually is a tremendous concern to
21 me and was just brought up. Why do we have a loan default?

22 MR. CONNOT: Because here's what happened, Your Honor.
23 Let me explain that.

24 THE COURT: I mean, that shouldn't happen, right?

25 MR. CONNOT: Because when they lock up the SEC codes

1 after the July 24th meeting when they lock up the SEC Codes, they
2 can't -- the company can't file the SEC forms.

3 Now what you have is you have NASDAQ that suspended
4 trading okay. That's when the loan default comes into play.

5 The loan default comes into play. Defendant's own actions
6 and their contumacious behavior in refusing to comply with the terms of
7 the TRO.

8 They sit here and say, well, we didn't think we could
9 participate in board meetings despite the fact that their counsel was told
10 how I do -- how are we supposed get information to these board
11 members?

12 And it's silence. And then they come in here and complain
13 about it. That's the one thing that they complied with. I mean, they don't
14 want to comply with the other provisions as we laid out in the motion for
15 contempt.

16 So I mean, it's rewarding bad behavior for them to come in.
17 And if the Court wants to fashion something that preserves the status
18 quo --

19 THE COURT: But see, the thing about it is and understand
20 this. I understand your position and respect it.

21 They're kind of arguing the same thing regarding bad
22 behavior. And so, my question is this. This is how I look at it --

23 MR. CONNOT: Yeah.

24 THE COURT: -- as far as both parties are concerned with bad
25 behavior kind of like this until I hear all the facts. I mean, so and that is

1 my point. I don't, but I have to be very cautious.

2 MR. CONNOT: Yes, and several things. Several things have
3 happened. Now a lot of it, you know, there's -- as you've noted, there's
4 allegations on both sides as to --

5 THE COURT: Right.

6 MR. CONNOT: -- who's feet that lies at. But the fact of the
7 matter as is the Court is focused on is preserving a status quo.

8 THE COURT: Thank you.

9 MR. CONNOT: What that status quo looks like. What that
10 status quo looks like. What is their proposal? Repeal the entire thing.
11 Just set it aside and go back to the chaos that existed in the month of
12 July starting on July 8th with the unauthorized unlawful board meeting.
13 That's what they want to go to.

14 Now I hear today for the first time let's even roll it clear back to
15 June and get Mr. Colucci off the board even he was put on there by
16 these other four directors. So I mean, but so I think the Court's task --

17 THE COURT: Right, yeah.

18 MR. CONNOT: -- certainly is to come up --

19 THE COURT: Yeah.

20 MR. CONNOT: -- with the status quo --

21 THE COURT: Yeah.

22 MR. CONNOT: -- that makes sense and [indiscernible].

23 THE COURT: Well, that's one of the things I was looking at
24 because in a general sense, I think the 48 hour notice is fine.

25 However, for example, there's a carve-out right here. And

1 understand this. I don't mind telling you this. Your business court, right,
2 we're a little bit different than other courts because normally, you can't
3 get in front of a trial judge you know, very quickly. You know, and this is
4 important, too. I have to keep my thumb on this case, right, as it
5 progresses through litigation.

6 And my point is this. If there's an emergency, I can be
7 contacted very quickly, right? I can. And for example, it doesn't matter if
8 I -- and I'm not going on over any vacations any time soon for at least
9 the next 60, 90 days. So I'll be in the jurisdiction.

10 And my point is this. If hypothetically you needed some board
11 action quickly, it could happen really quick. And all I mean by that is
12 this. You could call -- you could call Mr. Kemp or Mr. Parker and say,
13 look, I have to get in front of the judge. We need to get in front of the
14 judge now because we have an emergency coming up and we need
15 board action that makes the 48 hours impractical.

16 And you get Mr. Kemp or Mr. Parker on the phone because I
17 can't have ex parte discussions.

18 MR. CONNOT: Uh-huh.

19 THE COURT: And then we're on the phone. And you say,
20 Judge, this is what we need.

21 And then, if I'm in Court, this is how I handle that. I go ahead
22 and we've done this many times. Is this correct, staff? I will come in
23 and said, okay, we're going to do it this way. You might be remote but
24 you might bring your phone, but I'll to it in open court so we have a
25 record. That's how I do everything.

1 MR. CONNOT: Uh-huh.

2 MR. PARKER: Okay.

3 THE COURT: And I've done that on multiple occasions.

4 MR. CONNOT: I don't think this, which was originally
5 designed to get the employees paid --

6 THE COURT: Right.

7 MR. CONNOT: -- was really what the original design of this
8 was. That was where it was left yesterday with the, you know, the
9 insistence that we get this employees paid by Friday addresses enough
10 of the status quo.

11 I mean, my suggestion would be that the parties submit
12 something that carves out what the continuing status quo might be --

13 THE COURT: I have no problem with that.

14 MR. CONNOT: -- and come back to the Court tomorrow and
15 the Court can decide.

16 MR. KEMP: Judge, I don't mind submitting more orders, but I
17 think this one we need to get out there, because --

18 THE COURT: Oh, this one we're going to get out today.

19 MR. KEMP: Yeah, I just think the only issue is whether it's
20 two days --

21 THE COURT: I mean, we've done the carve-out.

22 MR. KEMP: -- as they've proposed.

23 THE COURT: Yeah.

24 MR. KEMP: Yeah, Mr. Rulis can put the carve-out in.

25 THE COURT: Yeah.

1 MR. KEMP: The only issue left is on 5 whether it's two days,
2 30 days, or 60 days. They propose 2 days. I think it should be 60 days.

3 MR. CONNOT: But the question is is what happens with the
4 rest of the terms of the existing TRO or are there other provisions that
5 the Court envisions might be appropriate to maintain the status quo of
6 the company?

7 THE COURT: Now I understand this.

8 MR. CONNOT: You know, resolving --

9 THE COURT: Mr. Connot, I don't want -- trust me, I don't
10 want to cut you off on this --

11 MR. CONNOT: Yeah.

12 THE COURT: -- but those other provisions, I'm going to need
13 your assistance on. I'm going to need Mr. Kemp --

14 MR. CONNOT: Yes.

15 THE COURT: -- and Mr. Parker. Because I can't come up
16 with those other provisions without your assistance. You see what I'm
17 saying?

18 MR. CONNOT: Yes, no, I don't disagree. And maybe that's
19 something we can come back to Court tomorrow with.

20 THE COURT: Yeah.

21 MR. CONNOT: With other provisions that either there's 10
22 provisions or 3 provisions or 9 provisions. And we agree on 30 percent
23 of them and put the rest of them before the judge and you decide. I
24 mean, I think you've heard enough arguments for counsel.

25 THE COURT: Oh, yeah, I've heard a lot of discussion.

1 MR. CONNOT: Yeah, a lot of arguments, a lot of allegations.
2 You've got a lot of documents. And we simply give it to you. And if you
3 have questions, you could say, Mr. Connot, I've got a question about this
4 or Mr. Parker or Mr. Kemp.

5 Tell me why I should have this rather than have us continue to
6 consume Court's time just, you know, throwing back allegations and
7 putting what lawyers do with facts, put the best light possible on our
8 facts and the worst light possible on facts for the other side. So I don't
9 think that's helpful to the Court. I mean --

10 THE COURT: No, I understand.

11 MR. CONNOT: -- if the Court wants, you can certainly ask us
12 to do it, but I don't think that's where you're at. So maybe that's the best,
13 you know, approach at this point.

14 THE COURT: I think -- I'm thinking something like that.

15 MR. PARKER: So Your Honor, it's -- I know it's 5:00 and I'm
16 mindful of the time of Your Honor as well as your staff. I know there's
17 rules here in terms here of overtime. So I don't want to keep your staff
18 longer than need be.

19 THE COURT: Oh, no. I'm just going to make -- I'm thinking
20 about this for the TRO.

21 MR. PARKER: The -- we're -- I just want correct as kind of a
22 couple of small points. Number 1, Mr. Noble sent over to the Plaintiff the
23 codes. So that suggestion that they were -- that we did not abide by the
24 TRO and kept the codes is ridiculous. It was sent over.

25 Again, Your Honor mentioned the wane of the likelihood of

1 success. And if the Court just said a few moments ago perhaps Mr.
2 Connot did not take note of it.

3 But given what you've already heard, the likelihood of success
4 for the Plaintiff is in question. And you actually referred us to the scales,
5 which appear to be pretty even.

6 And since there has to be a showing of a likelihood of success
7 to maintain this TRO, that TRO in our belief and given what the Court
8 has said should be set aside.

9 The final thing I would mention, Your Honor, looking at the
10 criteria for issuing a TRO and maintaining it is the Clark County School
11 District versus Buchanan case, 112 Nev. 1146, 1996 case.

12 And the Ellis versus McDaniel, 95 Nev. 455, 1979 case. Both
13 indicate Nevada Supreme Court, you have to weigh the interests, the
14 public interest and the relative hardships of the parties in deciding to
15 grant the preliminary injunction as well as maintain the TRO.

16 Certainly, given how much you've heard today and how much
17 you've read between yesterday and today, the Plaintiff's position does
18 not satisfy the prongs required to either issue a TRO, perhaps it did at
19 the time, but certainly not now and certainly not maintaining it, Your
20 Honor.

21 So we ask that -- because that's why we're here. We're here
22 because the Court has the scheduled our opposition -- is hearing our
23 opposition to the Plaintiff's TRO and the TRO not be allowed to continue,
24 Your Honor.

25 MR. CONNOT: So --

1 THE COURT: Mr. Connot, go ahead.

2 MR. CONNOT: -- correction, factual correction. Now Mr.
3 Noble up there on the screen, you know, did not turn over the codes.
4 On Saturday, August 6th, he sent an email to the officers and directors
5 saying he was going to.

6 He immediately followed up a few hours later, in fact, 45
7 minutes later, said I'm amending my last email, based on advice
8 received after being served the TRO.

9 All Vinco Ventures admin rights or Vinco Ventures for servers,
10 SEC codes, and [indiscernible] responsibilities have been handed to co-
11 CEO of Vinco Ventures, Ted Farnsworth.

12 Mr. Farnsworth never provided them, nor did any of the other
13 ones. So --

14 MR. PARKER: You --

15 MR. CONNOT: -- the facts of the situation are that they have
16 failed to comply with it. But beyond that, this Court has wide discretion
17 in making sure that this company stays intact and is sincere --

18 THE COURT: Absolutely.

19 MR. CONNOT: -- is sincere concern and desire.

20 THE COURT: Exactly.

21 MR. CONNOT: To make sure of that. This Court has the
22 authority to fashion some sort of remedy to ensure that the status quo of
23 this company goes forward.

24 THE COURT: Right.

25 MR. CONNOT: And that's what we're requesting is come

1 back tomorrow, submit our competing position.

2 THE COURT: Well, and this is --

3 MR. CONNOT: What we can agree on --

4 THE COURT: -- this is what we're going to do. I'm going to
5 make it actually a little easier for you as far as this issue's concerned,
6 because I'm going to put some heat on you, too.

7 MR. PARKER: Your Honor, I actually got the paperwork
8 proving Mr. Connot wrong in his last comment. This is a email of the
9 codes to Mr. Colucci. So I'm really concerned that Mr. Connot either
10 doesn't know his file or he's not taking heed to Rules of Professional
11 Conduct 3.4 and 3.3.

12 We also have another email where Ms. King I believe sent
13 over the codes. So --

14 MR. CONNOT: And then, they changed the codes.

15 MR. PARKER: You know, so hopefully, he's just not being
16 given all this information from his client, but Your Honor, we can
17 continue going back and forth, but certainly, the prong of prevailing,
18 likelihood of prevailing on the merits has not been satisfied by this
19 Plaintiff.

20 THE COURT: All right. This is what I'm going to do. Number
21 one, as far as paragraph 4 is concerned, they'll be a carve-out exactly
22 like I indicated as it pertained to participation in the calling of the note
23 and just as important making sure that that can be remedied in some
24 form or fashion.

25 Sir?

1 MR. RULIS: Your Honor, if I might?

2 THE COURT: Absolutely.

3 MR. RULIS: Plaintiff proposed that this shall not apply to the
4 notice of default of the Hudson Bay note, I believe. Is that sufficient?

5 MR. CONNOT: Read that again, I'm sorry, Nate.

6 MR. RULIS: So paragraph 4, this shall not apply to the notice
7 of default of the Hudson Bay note.

8 THE COURT: Right, that's the carve-out?

9 UNIDENTIFIED SPEAKER: [Indiscernible.]

10 MR. CONNOT: Well, for right now.

11 THE COURT: You guys work the language out, but I want a
12 carve-out. I'm just telling you that. I want a carve-out, I do, because I'm
13 concerned.

14 MR. CONNOT: Where are at in having a meeting this
15 evening?

16 THE COURT: When I come here tomorrow, when you guys
17 come tomorrow, I expect to see a carve-out. Just telling you that. I want
18 a carve-out.

19 MR. KEMP: We would like to get the order signed tonight, if
20 it's --

21 THE COURT: And you know what's great about that, Mr.
22 Kemp? I don't mind telling you this, what's great about getting order
23 signed tonight, we now have the capabilities to do that. We have -- what
24 is it called, OIC order of the -- what is that -- yes, where I can sit at home
25 on my laptop and my Law Clerk calls me, Judge, we need a order

1 signed and I can log on, and I can sign that order right then and there.

2 MR. PARKER: Like Docusign.

3 THE COURT: Well, it's similar, except for us. A little different
4 than that, but so that's a non-issue. I just want to tell you that, Mr.
5 Kemp. If I get a call and our Law Clerk knows there's an order, then
6 submit it, he'll look at it and if everyone agrees it's a joinder, I'll sign it
7 tonight.

8 MR. KEMP: And the only other issue is whether it's 2 days,
9 30 days, or 60 days.

10 THE COURT: Well, I got a slight change to that.

11 MR. KEMP: Okay.

12 THE COURT: This is what I'm going to do and this where I'm
13 going to put heat on you, because understand this. I can't arbitrarily go
14 out and fashion what's the status quo, because to be candid with you, I
15 have no understanding what the business models are. I don't know
16 what the challenges are for this company. I don't. I'm not a CEO. I'm a
17 judge, right? But I know there's issues that have to be addressed.

18 And so, this is what we're going to do. As far as number 5 is
19 concerned, Mr. Kemp, and they'll be of course somewhere down the
20 road in an amendment to this, but I'm going to -- I'm not going to say 60
21 days, 30 days. It's going to be simply this.

22 This order will be in effect for two weeks. And the temporary
23 restraining order previously entered by this Court will be dissolved within
24 24 hours. And provided no action is taken by any of the parties until the
25 Court reaches a decision as to the finding or a definition of what

1 maintaining the status quo will be.

2 I'm going to have you tomorrow at 1:30. And we're going to
3 work that out together. And so, by the time we're done, we're going to
4 have an order in place that protects what I hopefully will be the interest
5 of the parties in this case. And that's everybody.

6 MR. KEMP: The only question I have and I think the Hudson
7 Bay carve-out should also be -- because they've already indicated they
8 wanted Mr. Farnsworth involved both at this Board meeting and with
9 Hudson Bay on this default. And if you're keeping the TRO in effect,
10 he's precluded from doing that.

11 THE COURT: No, we want to make sure -- I don't want to do
12 anything like that, that --

13 MR. CONNOT: We'll stipulate.

14 THE COURT: Yeah, we want to -- Mr. Kemp, you can put that
15 in the order. Mr. Farnsworth can participate in any meetings and/or
16 decisions or whatever. Whatever's appropriate as far as the Hudson
17 Bay note is concerned.

18 MR. CONNOT: And just from a housekeeping matter --

19 THE COURT: Yes.

20 MR. CONNOT: You know, we don't agree with the language
21 dissolving, but I understand what the Court said. And the Court felt --

22 THE COURT: Well, it doesn't mean I'm going to dissolve --

23 MR. CONNOT: No, I know, but the Court --

24 THE COURT: -- it, but it's in place, but I want to have
25 something in place.

1 MR. CONNOT: I understand, but the -- so the only comment I
2 was going to make from a housekeeping sort of matter is that this will
3 then become an order submitted to the Court. We still have, you know,
4 our objections to that provision of it. I want it to be a stipulation and an
5 order.

6 THE COURT: Okay, that's okay.

7 MR. CONNOT: I'd rather have it be an order with our
8 objections to that -- at least that provision noted, so that it's preserved,
9 so it's not [indiscernible] that you agreed with that.

10 THE COURT: Okay, and what you can do, if that's a problem,
11 it can be noted in the order that this was entered or whatever the specific
12 provision over the objection of either side.

13 MR. CONNOT: Okay.

14 MR. KEMP: Thank you, Your Honor.

15 THE COURT: But what I want to do is I want to put this to bed
16 and then conduct discovery.

17 MR. CONNOT: We're back at 1:30 tomorrow?

18 THE COURT: 1:30.

19 MR. KEMP: I think Mr. Rulis can get this thing printed out in
20 short course.

21 THE COURT: I'm not going anywhere.

22 MR. RULIS: I say we're working on it right now, Your Honor,
23 so.

24 MR. KEMP: Your Honor, the other issue, I thought I heard
25 you say we're going to have a special master in the expedited discovery,

1 but I --

2 THE COURT: I mean, we got to talk about that.

3 MR. CONNOT: Talk about it.

4 THE COURT: And talk -- we can talk about that tomorrow,
5 too.

6 MR. CONNOT: Yeah.

7 MR. KEMP: Okay, yeah, because as Your Honor knows, we
8 filed a motion on order shortening time.

9 MR. CONNOT: The OST hasn't been granted. We haven't
10 been served after the OST's been granted. I mean, there's one day
11 notice period after the OST.

12 MR. KEMP: No, actually, I emailed it to you on Monday night.

13 MR. CONNOT: Right, but --

14 THE COURT: Gentlemen, understand this, right?

15 MR. KEMP: [Indiscernible.]

16 MR. CONNOT: I understand, but once the OST's been
17 granted.

18 THE COURT: Guys.

19 MR. CONNOT: We're still entitled to one day's notice.

20 MR. KEMP: No.

21 THE COURT: I think this case would meet the definition of
22 complex litigation, right?

23 MR. KEMP: I [indiscernible].

24 MR. CONNOT: I tend to think so.

25 THE COURT: Okay, and so, what does that do? They give

1 the trial court a lot of discretion on those specific issues, right?

2 MR. KEMP: They do.

3 THE COURT: Because once again, all I want to do is move
4 the case forward and --

5 MR. CONNOT: Let's talk about it tomorrow.

6 THE COURT: Yes, yes, yes, yes. And we have a whole
7 afternoon we're spending together. And tomorrow. And that's why I
8 think when you go to business court, you pay an extra filing fee.

9 MR. KEMP: Yeah, Judge.

10 MR. CONNOT: To get your smiling faces.

11 THE COURT: Yes.

12 MR. KEMP: Not to get lost, we also filed a motion on order
13 shortening time for the appointment of counsel to take a look at the
14 disclosures.

15 THE COURT: I understand.

16 MR. KEMP: Okay.

17 THE COURT: Okay, I understand.

18 MR. KEMP: So it's not lost.

19 THE COURT: And we'll -- I know you're going to do this, Mr.
20 Kemp, but I don't know if that's been said or not, but if it hasn't, remind
21 me.

22 MR. KEMP: Okay.

23 THE COURT: That's all I can say. Remind me, and I'll make
24 sure it's get set tomorrow.

25 MR. KEMP: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Okay, it's not too bad. It's 5:10.

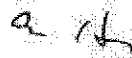
MR. CONNOT: Okay.

THE COURT: 1:30 tomorrow.

THE MARSHAL: All rise.


[Proceedings concluded at 5:12 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Chris Hwang
Court Reporter

EXHIBIT "D"



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 VINCO VENTURES, INC.,

9 Plaintiff,

10 vs.

11 THEODORE FARNSWORTH, et
12 al,

13 Defendants.

CASE#: A-22-856404-B

DEPT. XVI

14 BEFORE THE HONORABLE TIMOTHY WILLIAMS, DISTRICT COURT JUDGE
15 THURSDAY, AUGUST 18, 2022

16 **RECORDER'S TRANSCRIPT OF HEARING**
17 **PLAINTIFF VINCO VENTURES INC.'S EMERGENCY MOTION FOR**
18 **TEMPORARY RESTRAINING ORDER AND PRELIMINARY**
INJUNCTION

19 APPEARANCES:

20 For the Plaintiff:

MARK CONNOT, ESQ.
REX D. GARNER, ESQ.

22 For the Defendants:

23 WILLIAM S. KEMP, ESQ.
THEODORE PARKER, III, ESQ.
24 NATHANIEL R. RULIS, ESQ.
MADISON ZORNES-VELA,
25 ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (continued):

Also Appearing:

ADELE HOGAN, ESQ.
LISA KING
THEODORE FARNSWORTH
RODERICK VANDERBILT
ERIK NOBLE [BlueJeans]

RECORDED BY: MARIA GARIBAY, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Thursday, August 18, 2022

[Case called at 1:37 p.m.]

THE COURT: Please be seated. All right, good afternoon.
Let's go ahead and set forth our appearances for the record?

MR. CONNOT: Good afternoon, Your Honor.

THE COURT: Let's start first with the Plaintiff and move to the
Defense.

MR. CONNOT: Thank you, Your Honor. Good afternoon,
Your Honor, Mark Connot and Rex Garner for the Plaintiff. Also present
is Adele Hogan, who had -- not yet admitted.

THE COURT: All right.

MR. KEMP: Your Honor, Will Kemp from Kemp Jones on
behalf of Defendant Farnsworth.

MR. PARKER: Good afternoon, Your Honor, Theodore
Parker on behalf of Ms. King and Mr. Vanderbilt. Thank you very much.

MR. RULIS: Good afternoon, Your Honor, Nate Rulis on
behalf of Defendant Farnsworth and especially appearing Defendant
Erik Noble, who's also here on BlueJeans.

THE COURT: All right. And have --

MS. ZORNES-VELA: Good afternoon, Your Honor, Madison
Zornes-Vela on behalf of Defendants Farnsworth and Noble.

THE COURT: Good afternoon. Does that cover everyone?

MR. CONNOT: Yes, Your Honor.

THE COURT: All right, okay, so where do we go from here? I

1 see this Vinco Ventures organizational chart. How is that going to help
2 me this afternoon?

3 MR. CONNOT: Well, I don't know, but I think maybe a
4 housekeeping matter to begin with and the Court may have noticed the
5 vacant seat here.

6 First of all, the company had successful discussions,
7 unanimous consent last night, was able to achieve a major restructuring
8 of the financial issue that was pressing. So that's the positive news.

9 There's an 8-K that's been filed. That issue has been
10 resolved. I think most everyone was up most if not the entire night,
11 including Mr. Colucci.

12 Mr. Colucci has had a grave family emergency that he has
13 had to attend to. And he's not going to be present. We had requested,
14 and understandingly so, we requested of the Defendants that the
15 hearing be vacated -- be continued because of that to early to mid next
16 week.

17 And the response we received was while expressing
18 condolences for and concern for Mr. Colucci's family situation, and I
19 think, you know, unfortunately, it resulted in an attempt to leverage that
20 into, well, now we should put Ms. King back in as an interim CEO
21 because he's unable to attend to duties.

22 As we've advised the Defendants, just has with any situation
23 whether it's attorneys, whether it's litigants, whether it's CEOs of
24 companies, or any employee or person out there, we have family issues
25 that sometimes you have to tend to. That doesn't mean, you know, even

1 CEOs have family emergencies.

2 And for example, Ms. King herself, while she served as CEO,
3 took several days off while her -- apparently there was a death in the
4 family of an aunt or someone of that ilk.

5 So, I mean, I think it's unfortunate that that's the situation
6 we're presented with. As we advised Defendants immediately after we
7 received that response, Mr. Colucci simply because he has to attend to
8 a family emergency doesn't mean that he's not still acting as CEO.

9 And as he often does, he's back in the saddle on Saturday.
10 He's available by cell phone, but he's not available today. He's got to
11 attend to a family emergency.

12 And you know, that will likely tie him up today and tomorrow,
13 but he's ready to continue if the Court wanted to resume, you know, any
14 further hearing next week. I don't know what the Court's availability is or
15 the parties' availability, but that's the situation that, you know, sort of
16 advise the Court what the situation is currently.

17 THE COURT: All right, and thank you, sir.

18 MR. KEMP: And, Judge, last night, the emergency was this
19 Hudson thing, which as counsel's indicated, has been solved and we
20 signed the managed consent on it.

21 And I don't want go through it, but Mr. Farnsworth, again, is
22 the principal that deals with Hudson, so he had a lot of conversations
23 and such and such to get this resolved. But anyway, so that's last
24 night's emergency.

25 Today, Mr. Colucci has an emergency. Your Honor, we're not

1 taking live testimony. There's nothing that he --

2 THE COURT: Well, actually, Mr. Kemp, and I don't mind
3 saying this, I thought this would be some sort of continuation of our
4 discussions yesterday to try to work something work out --

5 MR. KEMP: Right.

6 THE COURT: -- regarding what would be defined the status
7 quo.

8 MR. KEMP: That's exactly right, Your Honor.

9 THE COURT: And at the end of the day, it really comes down
10 to this. I always -- the reason why I do this, I like to invite counsel to
11 educate me on those issues because I can be -- we can be sure of this
12 one fact. I don't know all the facts and intricacies of the transactions and
13 the business operations in place.

14 I do understand there's a significant dispute as it pertains to
15 control. I get that, but like I indicated yesterday, my main concern right
16 now is making sure that nothing occurs to the detriment of the
17 corporation, more -- nothing more, nothing less.

18 I'm not making any final determinations. I'm not taking
19 evidence. I was hoping everyone would work together.

20 And I don't mind saying this. If you can't work it out, I'll just
21 issue an order placing everything in status quo and maybe I'll just
22 appoint a receiver that will report to me as to how we should handle this
23 case, I mean, really.

24 MR. KEMP: Judge, directly addressing your comment about
25 status quo --

1 THE COURT: Yeah.

2 MR. KEMP: -- as I said yesterday, I think the status quo is
3 that Lisa King is the CEO or the co-CEO. That's what Mr. Colucci
4 himself voted on. He voted for that on July 8, 2022 at the board
5 meeting.

6 They don't deny he voted on it. They're trying to say, oh, well,
7 his vote doesn't count because of some other reason, but he voted on
8 that at that point in time.

9 And so, in his judgment, being a director, exercising his
10 fiduciary duty, he said that Lisa King was appropriate to be a CEO on
11 July 8th.

12 And I don't want to get into what changed, you know, the
13 independent investigation by Gibson & Dunn, but this is -- this was the
14 status quo.

15 And I think this recent development of his family emergency,
16 you know, when somebody uses the term grave family emergency,
17 personally, I don't use that unless someone's near death, but I don't
18 know the circumstance. I don't think it's appropriate that counsel fills us
19 on the circumstance.

20 I will take him at the word -- at his word that there's something
21 so important going on, that even though they started this proceeding,
22 even though they filed a request for temporary restraining order, even
23 though they dragged us all the way out here and we're on the third day
24 of the hearing, that there's something so important that he can't come to
25 Court and participate.

1 Well, if there's something so important that he can't come to
2 Court to finish the proceeding that he started, I would suggest that
3 there's a crying need to appoint Lisa King as -- or to affirm that she's the
4 co-CEO.

5 And I'm not asking it be done forever, Your Honor. I would
6 just ask it be done for four to six weeks until such time as you could set
7 the hearing.

8 But you know, this company seems to have an emergency
9 every day. And now that they're admitting that he can't attend to it, I
10 think it really makes the argument easy.

11 And when you balance the equities, the needs of this
12 company, the needs of the company are to have someone attend to
13 matters.

14 And she's been the CEO since October 14th, 2021. He's
15 been involved, like I already said, for eight weeks. So why not get
16 someone who knows the company and has been operating involved at
17 this time who as opposed to someone else?

18 And so, for that reason, we think, you know, the Court's
19 handled the TRO. The TRO expires today at 6:00.

20 The Court's handled the first part of the payroll problem, which
21 is getting everyone paid for tomorrow.

22 You know, they're taking the position that the Court's order is
23 expired on Monday, that they can continue to fire everyone on Monday.
24 I just don't see that being a remedy here, but --

25 THE COURT: I mean, well, I thought and maybe I was wrong,

1 but I thought we were going to maintain the status quo as far as
2 employees and the like for two weeks.

3 MR. KEMP: I thought so, too, Your Honor, but the way that
4 reads --

5 THE COURT: And I'll be clear on this. And I've already
6 thought that through. And I understand and this is what I guess -- and I
7 give Justice Hardesty credit in this regard. He came up with the model
8 for it in business court. And he wants the judges they, you know, be
9 hands on and easy access and those types of things.

10 And so, I was looking at it from this perspective. I said two
11 weeks, but before the two-week time period ran, I said a status check
12 maybe on Day 13 versus you have to file something or run down to the
13 Court.

14 That way, it's like continuous. And if something comes up, I
15 said, okay, we'll continue another two weeks. We're going to see it in
16 two weeks. Those are things I thought about.

17 MR. KEMP: And Your Honor, I mean, we're acting in good
18 faith. Like I've already said, Mr. Farnsworth dropped everything and got
19 on this Hudson Bay thing. He was on the phone last night till 1:00 in the
20 morning, was up again at 4:00, 4:30.

21 And the Hudson Bay thing got resolved under the time
22 constraint that Hudson Bay gave. And even the other side says that the
23 resolution was "extremely beneficial to Vinco and all its shareholders",
24 which we agree.

25 So, Your Honor, we're trying, but I think we should restore the

1 status quo and put Lisa King in as the CEO at least for, I mean, who
2 knows what Mr. Colucci's situation is? He may be out of pocket for
3 weeks, months, longer, I don't know it's this great family emergency, but
4 those usually don't resolve themselves in an hour. So, for that reason,
5 Your Honor, I would submit that what we should do for the status quo is
6 enter an order.

7 And as you notice, I backed off the request to add Mr.
8 Farnsworth as well. I'm just saying because I don't -- even though he
9 dropped everything and he did what he did with Hudson Bay, I'm not
10 asking for that because I know there's going to be a lot of pushback from
11 the other side on that.

12 So I was hoping that maybe we could get Lisa King in there
13 and --

14 THE COURT: Well, I even had a question like that. How is
15 the company harmed with Farnsworth being called co-CEO?

16 MR. KEMP: I don't think there's a harm at all, Your Honor,
17 because --

18 THE COURT: I mean, I thought these are the things --

19 MR. KEMP: -- look what happened last night, okay? They got
20 the problem with Hudson Bay that -- and this was a serious problem.

21 THE COURT: I understand.

22 MR. KEMP: How it was created, I think we're going to get into
23 a little later, it's not necessary today, but it was a serious problem. \$96
24 million loan that was in default and now it's solved. Now it's solved.

25 And I don't want to say Mr. Farnsworth's a miracle worker, but

1 that's a pretty heavy duty problem to resolve in three or four hours.

2 THE COURT: Well, that was my question as a result of
3 finding out because I did a copy get a copy. Is it the K-8?

4 MR. KEMP: 8-K.

5 MR. CONNOT: 8-K.

6 THE COURT: Oh, form 8-K, yes, I got a copy of that. And I
7 thought about it. I said, well, how's the company harmed with him being
8 named co-CEO, that little sticker on that?

9 MR. KEMP: Well, you know, the guy that has contact with the
10 money, Your Honor, that's the one you do want --

11 THE COURT: That's usually the most important guy in the
12 room.

13 MR. KEMP: Yeah, so Your Honor, I think having them both be

14 --

15 THE COURT: Right?

16 MR. KEMP: -- co-CEO for minor time period is not a big ask.

17 THE COURT: I understand, but I wouldn't go beyond the
18 request. I think the request is for Ms. King. Is that correct, Mr. Kemp?

19 MR. KEMP: Yes, Your Honor.

20 MR. PARKER: Well, Your Honor, you wouldn't be going
21 beyond my request.

22 THE COURT: I understand.

23 MR. PARKER: My request is June 9th, so we'll keep that in
24 play hopefully.

25 MR. CONNOT: Your Honor, it's quite interesting that, you

1 know, they want to pick and choose board meetings, you know, and
2 decide which ones are valid and which ones aren't before the Court's
3 heard much in the way of any real testimony or evidence on it.

4 But there's no dispute. There's five directors of this company,
5 five directors. Ms. King, Mr. Vanderbilt, two of those five directors.

6 Mr. Colucci's a director. Mr. Distasio, Mr. Goldstein. That's
7 how the company's run, okay? There's five directors that make these
8 decisions.

9 So if you want to go back to the board meeting, the July 24th
10 board meeting, properly noticed, all five people attended. All five people
11 attended.

12 Mr. Vanderbilt continually objected and interjected that it
13 wasn't a valid meeting, refused to participate or vote.

14 But the vote of that meeting, the vote of that meeting ended up
15 being three directors voted to terminate Ms. King and terminate Mr.
16 Farnsworth, make Mr. Colucci the CEO interim, CEO of the company,
17 okay? The vote carried, okay?

18 Even if you eliminate, even if you were to eliminate Mr.
19 Colucci's vote, which you shouldn't because every other vote at that
20 meeting, there's no dispute he could vote on those, okay?

21 Because all you have is NRS 78.140. He could vote on those.
22 The NASDAQ rule about independent directors that they were having at
23 Gibson Dunn supposed investigation that never went anywhere -- that
24 went -- that had nothing to do with his ability to vote as a Board member,
25 okay? It had to do with the NASDAQ independence rule and what

1 committees he could serve on. So he could vote at that meeting.

2 But even if you interpret, which you cannot interpret in NRS
3 78.140 to say naming him CEO was somehow an interested transaction,
4 when there's a plethora of case law that says that's not the case, maybe
5 raising compensation is another thing.

6 But even if you do that, so now you have Mr. Goldstein and
7 Mr. Distasio voting yes. If you eliminate Mr. Colucci's vote, you then
8 have Ms. King voting no and you have Rodney Vanderbilt refusing to
9 participate and resulted in an abstention. He didn't vote. He didn't cast
10 the vote one way or the other.

11 THE COURT: But here's my question, why didn't he vote?
12 Was it a protest vote based upon the composition of the Board?

13 MR. CONNOT: No not the composition of the Board. He
14 didn't like the fact of how the meeting was held --

15 THE COURT: Right.

16 MR. CONNOT: -- and that the Zoom link wasn't there, but the
17 issues were presented to the Board.

18 THE COURT: But I mean --

19 MR. CONNOT: The Board voted on those issues.

20 THE COURT: -- if there was a problem with the Zoom link or
21 any sort of procedural or technical problem, shouldn't the Board have
22 considered that in moving forward?

23 MR. CONNOT: It wasn't a problem with the Zoom link, Your
24 Honor. It was a problem with the conduct of that. And we can play the
25 tape of that. We can play you excerpts of the recording of that.

1 It was utter chaos. And it was repeatedly by Mr. Vanderbilt
2 shouting invalid meeting, invalid meeting, invalid meeting, invalid
3 meeting to the point that the discussion couldn't even occur.

4 You've got five directors here, Your Honor, running a nine-
5 figure company, a nine-figure company. And they can't even conduct
6 business because one of the Board members is -- because they don't
7 like what's on the agenda. They don't like what's being voted on.

8 That's not appropriate conduct, Your Honor. And you can't
9 say the meeting's invalid because you want to shout down everybody. I
10 mean, you know, unfortunately that's where some of the political arena's
11 gone to, but that shouldn't -- it should not be the case there, but certainly
12 should not be the case in a company like this, where there are fiduciary
13 duties to the shareholders. There's multitudes of shareholders and
14 investors out there who's rights are impacted here.

15 These directors are all five directors of the company. They
16 decide the business of the company.

17 Ms. King, the reason Ms. King was terminated, she was
18 terminated for cause along with Mr. Farnsworth were terminated for
19 cause from the company.

20 One of those reasons, they spent \$10 million at EDC, \$10
21 million, Your Honor, without authorization from the Board. I mean, that's
22 just one of the litany of things.

23 They want to come in here and talk about, oh, they want to fire
24 people, it's a reduction in force. In fact, the other day, they even fired
25 the head of HR.

1 Well, guess what? That RIF started -- that reduction in force
2 plan started back in June, even into July. And Ms. King herself had that
3 very same person's name on one of her lists of people to cut.

4 So they come in here and make all these allegations, oh, my
5 gosh, you know, after July 24th, after they couldn't sustain the votes that
6 they needed as directors, after July 24th, this company just went
7 completely in the toilet.

8 Absolutely not. The problem is is that these problems were
9 endemic to the company. Part of the reason why these two weren't
10 there.

11 THE COURT: But here's my question. When did these
12 problems become endemic to the company, because from a historical
13 perspective, and it's my understanding in listening and reading and I
14 don't have all the briefing right in front of me --

15 MR. CONNOT: I --

16 THE COURT: -- the company was progressing fairly well as
17 far as this matter's concerned with the prior Board.

18 MR. CONNOT: Yeah, absolutely not, Your Honor. And I
19 know the Court --

20 THE COURT: When you say absolutely not, what do you
21 mean by that?

22 MR. CONNOT: Well, I know the Court said it didn't intend to
23 hear live testimony, but I could put the CFO, who's here, Mr. Jones,
24 Phillip Jones, on the stand and he can tell you what he was going
25 through and what this company has been going through for months.

1 That's why the reduction in force was there. That's why it was
2 so ridiculous that Mr. Farnsworth and --

3 THE COURT: Reduction in force because --

4 MR. CONNOT: -- and Ms. King spent \$10 million.

5 THE COURT: Wait, wait. Reduction in force because of
6 what?

7 MR. CONNOT: Because the company didn't have the money.
8 The burn rate was exceeding. They were putting together cash flow
9 analysis.

10 Ms. King was directed to do so, did so at the beginning of July,
11 gave some of her cash flow analysis. And the Board was insisting that
12 cuts be made, the Board.

13 You know, before there were these disputes, early July, late
14 June, they were making -- this company was having financial issues.
15 Despite the pictures they want to paint, the company was having serious
16 financial issues with the fact that they didn't have the revenue or the
17 margins to be able to sustain what they were doing.

18 Part of that is because they're paying part of the payroll for a
19 company, Magnify You [phonetic], that is basically Ms. King's family
20 business. They don't receive a benefit at Vinco of that. So, I mean,
21 you've got a host of issues out there.

22 And to come in here and basically say, well, you know, Mr.
23 Colucci's grave family emergency, you know, he --

24 THE COURT: Sure, but you're missing my point. That didn't
25 concern me.

1 MR. CONNOT: Okay.

2 THE COURT: I mean, really and truly. If none of the other
3 Board members were here, we can still get business done.

4 MR. CONNOT: Exactly, but --

5 THE COURT: I mean, that's not an issue for me. My issue is
6 this. I understand your position and your client has their side of the
7 story.

8 The Defendants have their side of the story. When we were to
9 come back today, it's my recollection we were going to make some
10 decisions as to what would be the status quo. Nothing more, nothing
11 less, right?

12 MR. CONNOT: Right.

13 THE COURT: And I wanted to give everyone breathing room,
14 so we can come in and we can deal with the facts of the case. And we
15 can't do it now.

16 It's like I said yesterday, and I don't mind saying this, there's
17 issues regarding whether or not there's a likelihood of success on the
18 merits from either side, because all I have is argument of counsel. I
19 think I said that yesterday, right?

20 And so, it's a tough situation. So if -- and this is how I look at
21 it. I'm not going to be here all day. I don't mind telling everybody this. If
22 you can't come to some sort of accord, I'll just make some decisions.
23 That's all.

24 And when I make decisions, you might not like it, but it -- I'll
25 look at it from this perspective from a business perspective, I don't want

1 anything done. I don't want any action. I just want the company to
2 move forward the best they can until we can make decisions.

3 I could set it up. If you're going to make a major decision in a
4 Board meeting, then it has to go through me first. I mean, if we want to
5 do it -- and I want to do that. I really and truly don't.

6 Maybe I can appoint an independent -- I looked at the receiver
7 statute. Maybe it covers it, I'm not sure. I can have someone appointed
8 to report to me.

9 MR. CONNOT: Maybe suggestion.

10 THE COURT: And -- but I don't want to do any of that.

11 MR. CONNOT: I don't blame you, Your Honor.

12 THE COURT: I don't.

13 MR. CONNOT: I -- you know --

14 THE COURT: I'm not a CEO.

15 MR. CONNOT: -- in your shoes, that's the last thing I'd want
16 to do. Maybe a suggestion. I don't know if it's worthwhile if counsel see
17 for 20 or 30 minutes if there's a roadmap --

18 THE COURT: That's what --

19 MR. CONNOT: -- at least for the 14 minutes.

20 THE COURT: I wanted -- isn't that what I wanted to everyone
21 to come back here and do, right?

22 MR. PARKER: Agree, agree, Your Honor.

23 THE COURT: That's all I wanted. I mean, I don't want to
24 make any -- what I want to do is this. And you have to understand this.
25 And I respect both sides, but I have wonderful argument today,

1 wonderful argument yesterday, but I'm not going to make a rash
2 decision based upon that. My -- the decisions will be based upon the
3 evidence, right?

4 And so, yesterday, my thoughts were that we would come
5 back, maybe work something out for the next 2 weeks, 30 days, 60
6 days. I have a busy trial calendar.

7 Is that correct, sir?

8 THE CLERK: Correct, Judge.

9 THE COURT: Yeah, and so, I got to squeeze you in. I don't
10 want to harm the shareholders based upon any decision I make. I'm
11 concerned about the employees, you know, and those types of things.

12 And I realize there's a lot of acrimony here and -- but it's like in
13 any piece of civil litigation, and everyone knows this, it just takes time.

14 MR. CONNOT: Yeah, and I think given the speed at which
15 the landscape can change at times --

16 THE COURT: Uh-huh.

17 MR. CONNOT: -- that maybe and, you know, if we come back
18 in, you know, a week or two weeks.

19 THE COURT: Yeah, but I want you to --

20 MR. CONNOT: But --

21 THE COURT: I want something worked out today.

22 MR. CONNOT: That's what I was going to say.

23 THE COURT: I'm just going to tell you right now.

24 MR. CONNOT: To come in with a plan for at least the next 7
25 to 14 days --

1 THE COURT: Well --

2 MR. CONNOT: -- when the Court has us back because I think
3 enough may shift in that interim or could shift in that interim.

4 And, you know, as the Court well knows, you know, the
5 specter of trial or the specter of coming back to the courtroom
6 sometimes, you know, convinces the parties to reassess their positions
7 --

8 THE COURT: Absolutely.

9 MR. CONNOT: -- that if we map out a roadmap for the next
10 14 days to at least give that sense with coming back to the Court, if we
11 can map it out between the parties --

12 THE COURT: I'm going to tell you, sir.

13 MR. CONNOT: And then, if we can't, we can't.

14 THE COURT: Sir, and I'm going to say this to you.

15 MR. CONNOT: Yeah.

16 THE COURT: I can't think of any time in 17 years where the
17 parties have come to some sort of accord as far as how they want to
18 handle their case pursuant to the Rules of Civil Procedure and case law
19 that I said no. I've never said no. Never, right?

20 MR. KEMP: Judge, we're willing to talk. Like I said --

21 THE COURT: Yeah.

22 MR. KEMP: -- we dropped everything.

23 THE COURT: I mean, I'm the only judge in this courtroom -- I
24 mean, this whole building that doesn't require motions to change or
25 modify a Rule 16 scheduling order and get a new trial date.

1 MR. CONNOT: Yeah.

2 MR. KEMP: Yeah --

3 THE COURT: I don't even want -- I mean, the way I look at it,
4 and I'm not here unless there's a pitch thrown. That's probably the best
5 way to say it --

6 MR. CONNOT: Yeah.

7 THE COURT: -- because I'm here to call balls and strikes. If
8 there's no pitch, and you agree, why do I get involved?

9 MR. KEMP: I would point out, though, Your Honor, Mr. Parker
10 sent -- because we foolishly thought that us bailing them out of this
11 Hudson Bay mess would at least get a better appreciation for Mr.
12 Farnsworth's value and Ms. King's value.

13 So Mr. Parker sent a letter today saying why not make Lisa
14 King the co-CEO or CEO pending this problem with Mr. Colucci? And
15 that was rejected immediately.

16 So we did try to work something out, but --

17 MR. CONNOT: That doesn't preserve the status quo. I mean,
18 the status quo was the July 24th -- I mean, once again, we want to go
19 back and pick the board meetings they like and disregard the board
20 meetings they don't like.

21 MR. KEMP: So what are we going to talk about, Your Honor,
22 if he's not going to entertain our suggestion?

23 MR. CONNOT: Well, he's saying that's the deal breaker?

24 THE COURT: Well, I don't know if it's a deal breaker or not.
25 I'm not going to get involved in the negotiations. That's up to the parties

1 and their learned counsel.

2 I'm not going to get involved in that, but I'm going to give you a
3 chance to work it out. If you can't, then, you can make proposals to me.
4 I'm going to look at it from a 30-day perspective give or take and make a
5 decision.

6 Try to give you an opportunity to potentially work it out
7 because it's really important to point out -- I'm not familiar with all the
8 details regarding corporate governance of this --

9 MR. CONNOT: Yeah.

10 THE COURT: -- organization.

11 MR. KEMP: Your Honor, I really do think it's going to take us
12 10 minutes. And I don't want this to turn into some kind of guise to get
13 this matter continued --

14 THE COURT: Yeah, no, no.

15 MR. KEMP: -- under the pretext that we're going to --

16 THE COURT: No there's nothing to continue because
17 yesterday, I said what?

18 MR. KEMP: You made a plain --

19 THE COURT: Come back, work something out. If you can't,
20 I'll make a decision.

21 MR. CONNOT: My --

22 MR. PARKER: Your --

23 MR. CONNOT: Sorry, Teddy.

24 MR. PARKER: Can I jump in for a second, Mr. Connot?

25 MR. CONNOT: Absolutely, sorry.

1 MR. PARKER: -- counsel?

2 MR. CONNOT: Didn't realize you were about to speak.

3 MR. PARKER: No worries. I have a pretty quiet thus far.

4 MR. CONNOT: Surprisingly.

5 MR. PARKER: Well, you know, I like to throw you a curve
6 every once and a while.

7 Judge, just to kind of help guide these conversations,
8 hopefully it won't take, you know, a few minutes to either come to some
9 type of agreement or not.

10 What level of detail -- this morning I sat down for quite a bit of
11 time trying to create an order, something that I foresee competing orders
12 coming to the Court and the Court creating from that or deciding how it
13 chooses to decide how to create the appropriate status quo. And then,
14 the duration of that status quo until things from an evidentiary standpoint
15 can be presented to the Court.

16 And I'm stumbling a little bit on how far into the details do we
17 get? I'll give the Court an example because it may help us in our
18 conversations.

19 The Court is familiar with ordinary and routine business
20 expenditures.

21 THE COURT: Right.

22 MR. PARKER: And we may want to list those that we
23 consider to be routine insurance, for example, for the employees. Lease
24 payments for space, things like that.

25 And I'm sure as the Court has been on the -- has been a part

1 of the business court for a while, you're familiar with those types of line
2 items that have to get paid for the business to continue being a going
3 concern.

4 So that was a concern that these -- everybody on this side of
5 the table had yesterday. And with the exception of the payroll, I don't
6 think we got beyond that point.

7 And so, I thought we could use some -- a little indication,
8 some inkling, you know, get a feeling for the Court's inclination of how
9 deep in the weeds she wants to get because I don't foresee something
10 coming together in the next 10 minutes because of how things went
11 down -- broke down yesterday. Do you foresee something that detailed?

12 THE COURT: I would hope that wouldn't be necessary.
13 However, we talk about maintaining the status quo. I look at it from this
14 perspective.

15 I want to make sure that Vinco Ventures is an ongoing
16 concern without any risk regarding defaults on loans. I want to make
17 sure the day-to-day operation expenses are paid ongoing. If there's any
18 insurances due and owing, that's done, too.

19 I just want to make sure that it's a viable entity and because
20 there's been it's my understanding quite a few people invested in this
21 business and --

22 MR. PARKER: Absolutely.

23 THE COURT: -- the Board has fiduciary responsibilities to the
24 company. And that's my concern, Mr. Parker.

25 MR. PARKER: Right, the other --

1 THE COURT: And I don't -- I mean, I don't know what the
2 answer is, but it's one of those things where there's a significant dispute
3 ongoing on and no one's willing to work. And so, while you're in the
4 interim, maybe I should go and read the receiver --

5 MR. PARKER: And I --

6 THE COURT: -- statute. All right, and I mean, really and truly,
7 if you can't come to some accord, I'll just appoint somebody that
8 appoints to me. And he'll just take all the books and do what a receiver
9 does and make sure this business keeps ongoing.

10 Now I don't want to do a radical. I don't want to anything
11 radical like that. I don't, but what was the loan that almost went into
12 default? How much was that again? \$80 million?

13 MR. CONNOT: 96 million, Your Honor.

14 MR. PARKER: 96.

15 THE COURT: 96 million?

16 MR. CONNOT: \$80 million loan.

17 THE COURT: 80?

18 MR. CONNOT: \$16 million penalty.

19 THE COURT: Yeah, okay.

20 MR. CONNOT: So the default would result in a \$96 million --

21 THE COURT: Okay I don't -- but my point is that's of concern.

22 MR. CONNOT: Yeah.

23 MR. PARKER: So yesterday, I thought I want was a good
24 demonstration of how committed these three people are. And also, I
25 thought was a demonstration of how long Mr. Colucci held in his

1 pocket --

2 THE COURT: And understand --

3 MR. PARKER: -- this default.

4 THE COURT: -- but here's the thing. Understand, I don't
5 mind saying this. I don't like to do anything *sua sponte*. I don't think I've
6 ever just made decisions that way in cases. You know, I don't.

7 But sometimes I have to make -- in a situation like this,
8 because that is of grave concern, the \$96 million.

9 MR. PARKER: Uh-huh.

10 THE COURT: Right, that's a big -- that shouldn't get to that
11 point.

12 MR. PARKER: That's my -- what's where I was headed.

13 THE COURT: Yeah.

14 MR. PARKER: So they were aware of that. Mr. Colucci was
15 aware of that on Monday, then informed us or the Court on Tuesday
16 when we were here.

17 And Wednesday at the 11th hour, we're confronted with him.
18 But these three people, who came expecting to hear one day stayed and
19 stayed and stayed, and then worked all night to get it done.

20 Mr. Farnsworth called in favors to get it done. And so, I don't
21 know how you -- I can't see how Mr. Connot can suggest to this Court or
22 advance such a ridiculous position that these three people aren't helpful
23 to this company, the shareholders, and to its employees. It makes no
24 sense.

25 So I guess the bottom line is, Your Honor, we'll step out, for a

1 few --

2 THE COURT: No, no, I'll step out.

3 MR. PARKER: You'll step out.

4 THE COURT: Yeah, I'll step out.

5 MR. PARKER: We got the Marshal here.

6 THE COURT: When I step out, I'm going to -- when I step out,
7 I'll start reading the receiver statute.

8 MR. PARKER: Well, that puts a lot of pressure on us.

9 MR. CONNOT: Well, I would just, you know, in response to
10 Mr. Parker about this Hudson Bay note, the Hudson Bay note was 80
11 million. It was called because of the suspension of NAS -- I mean, the
12 whole history there.

13 Maybe the best way. My suggestion, Your Honor, is we see
14 what we can resolve. I -- you know, if the Court wants to hear argument
15 certainly, but I think, you know, you've heard plenty of argument from the
16 three us.

17 THE COURT: I have.

18 MR. CONNOT: We come in and give you the positions we
19 can agree on, those we can't. And if you have questions or want to hear
20 argument on a position, we do it. Otherwise, we're going to argue till
21 5:00.

22 THE COURT: Well, I agree with that. And anyway, but I'm
23 going to give you an opportunity to do that. And I'll go read the receiver
24 statute.

25 THE MARSHAL: All rise.

1 MR. CONNOT: Thank you, Your Honor.

2 THE COURT: Yeah.

3 [Recess taken at 2:08 p.m.]

4 [Proceedings resumed at 3:30 p.m.]

5 THE MARSHAL: Please be seated.

6 THE COURT: Okay, let's go ahead and set forth our
7 appearances for the record?

8 MR. CONNOT: Thank you, Your Honor, Mark Connot and
9 Rex Garner for the Plaintiff.

10 MR. KEMP: Will Kemp for Mr. Farnsworth.

11 MR. PARKER: Teddy Parker for Lisa King and Rod
12 Vanderbilt.

13 MR. RULIS: Good afternoon, Your Honor, Nate Rulis on
14 behalf of Defendants Farnsworth and specially appearing Noble.

15 MS. ZORNES-VELA: Good afternoon, Your Honor, Madison
16 Zornes-Vela on behalf of the Defendants Farnsworth and Noble.

17 THE COURT: All right, did that cover all appearances? I think
18 so.

19 MR. CONNOT: Yeah.

20 THE COURT: Okay, gentlemen?

21 MR. CONNOT: We tried, unable to. So I think the consensus
22 is we'll submit competing orders by 8:00 p.m. tonight through the
23 department inbox.

24 And you'll let us know and -- would you like us also to provide
25 a Word version so that if you want to pick and choose from each of them

1 or?

2 THE COURT: You can.

3 MR. CONNOT: Okay.

4 THE COURT: But as far as the inbox is concerned, you do
5 that in a regular form, but I guess you can send the Word version to my
6 Law Clerk.

7 MR. CONNOT: Okay.

8 THE COURT: Is that fine?

9 THE LAW CLERK: Yeah.

10 MR. CONNOT: Okay. And then, I think one, I don't want to
11 interrupt, but one other issue is there was an issue with the admin codes
12 for the servers.

13 We've had some discussions and the party's going to
14 cooperate to make sure that, you know, that the company has the ability,
15 however we resolve that issue, but at least the company has the ability
16 to have the admin codes for the -- at least the Microsoft Exchange
17 maybe servers.

18 MR. RULIS: Yes, Your Honor. We're having some
19 discussions trying to iron out that issue. We're not trying to withhold
20 anything. Want to make sure that appropriate people have the
21 appropriate control and the appropriate codes to the company servers.

22 MR. KEMP: Yes, Judge. And I just wanted you to be aware,
23 so you wouldn't be surprised, that I'm going to modify our proposal
24 slightly.

25 And what we're going to propose is that I'm having Mr.

1 Farnsworth -- Mr. Parker's got a different idea, but my proposal is going
2 to be that Mr. Colucci, Lisa King, and then, a third-party, who just
3 happened to wander in the courtroom today, because he was a witness
4 in the case next door, Mr. Ross Miller, be appointed as co-CEO.

5 And the reason we're suggesting that is we vetted Mr. Miller.
6 He said he'll do it. He used to be the Secretary of State of Nevada. If
7 you remember, his father was the governor for 10 years not even 8, but
8 10 years. And he does do corporate law. And he says he's interested in
9 it. So we're going to propose him as the co-CEO.

10 And the reason we thought it'd be better to have three instead
11 of two is that if there's a disagreement as to what to do, at least we have
12 a, you know, 2 to 1 potential as opposed to a 1 to 1.

13 So that's going to be in our proposal. And I just want to alert
14 the Court of that, so it didn't come out of left field.

15 THE COURT: I understand. Sir, anything you want to
16 comment on that?

17 MR. CONNOT: You know, I think the concern is, you know,
18 my clients certainly view that as, you know, somebody -- as litigation
19 goes, parties get in their positions is, that's being proposed by someone
20 else.

21 I think they're -- I think if we were even going to look at
22 something, like in that scenario, it ought to be a situation where, you
23 know, certain names are presented to the Court. And the Court may
24 select from that.

25 But I mean, and I'm not -- I mean, I know what Mr. Kemp

1 wanted to foreshadow for the Court. And I don't criticize him for that.

2 I don't want to get into, you know, argument of our position
3 where we say we weren't going to do that, but I just -- I kind of want to
4 just comment on that.

5 THE COURT: I mean, and here's, you know, what I find
6 fascinating about that concept. It's it would be akin to having someone
7 independent from the transactions, ownership, and all those things, that
8 has a background in these types of things and can have an independent
9 voice and just as important to if there's something that has to be done.

10 And it would be not quite like a receivership, but just a third
11 party there that's neutral, right, and can help the business move along?
12 And so, I understand that concept.

13 And -- but here was my point. I was listening and I was saying
14 to myself, well, you think the appropriate way to do it would be to submit
15 names under that concept? Would the Plaintiff want to submit a name
16 or two for me to look at?

17 MR. CONNOT: Well, I mean, I don't have any authority for
18 that concept.

19 THE COURT: Okay, I understand. That's fine.

20 MR. CONNOT: But I think the concept would get there.

21 THE COURT: I'm just telling -- I don't mind you this, we're
22 going to come back again in it's 13 days.

23 THE CLERK: Oh, 13, not 30 days?

24 THE COURT: No.

25 THE CLERK: Then that would be --

1 THE COURT: 8/31, right?

2 THE CLERK: It's actually 14. Well, it's from the order date?

3 THE COURT: From the order date, which is today.

4 THE CLERK: It is, oh, yes, that would be the 31st.

5 THE COURT: Okay, all right.

6 THE CLERK: Any time?

7 THE COURT: 9:00.

8 MR. KEMP: Judge, we did -- when we discussed it with Mr.

9 Miller, we told him it would be an interim gig. We didn't say that he's

10 been doing this forever.

11 THE COURT: Okay.

12 MR. KEMP: And I bring that up, because I have talked to

13 counsel about continuing to explore another solution that both people

14 could live with. But our position was we just can't --

15 MR. CONNOT: So --

16 MR. KEMP: Can't be an in vacuum for --

17 THE COURT: I see.

18 MR. CONNOT: So just for sake of clarity then, Will, you

19 wouldn't be advocating necessarily at this point for Ross to do anything

20 beyond a 14-day period? I'm not saying you couldn't actually at this

21 point.

22 MR. KEMP: I was going to put 30 -- yeah, I was going to put

23 30 in the order, but I wasn't saying a limited time period.

24 MR. CONNOT: I mean, if we're back in 14 days anyway, but.

25 MR. KEMP: Right.

1 THE COURT: Yeah. I mean, that's something to think about.
2 That's something I would contemplate because to be candid with
3 everyone, the order that's currently entered will expire in 14 days. I'm
4 going to have you come back in 13 days. This is the status check. You
5 can appear by BlueJeans or live as far as that's concerned.

6 But all right, I understand that. And both of those orders will
7 be submitted by 8:00 tonight?

8 MR. CONNOT: Actually, I think there may be three orders
9 because --

10 MR. KEMP: Mr. Parker has a different view.

11 THE COURT: I was going to next to Mr. Parker.

12 MR. CONNOT: Mr. Parker's got his own perspective.

13 THE COURT: Yes.

14 MR. PARKER: Absolutely.

15 THE COURT: Yes, Mr. Parker?

16 MR. PARKER: No, I have two clients, Your Honor, so.

17 THE COURT: Yes.

18 MR. PARKER: The only other thing I wanted to ask Your
19 Honor what Mr. Connot said and Mr. Kemp said, I understand their
20 positions and certainly my position is more in line with Mr. Kemp's.

21 The order that you're expecting and the orders that you will
22 review, again, you don't need so much detail that we're talking to you
23 about the actual bills that have to be paid. You expect that however you
24 handle this order, those you put in place to be able to handle the routine
25 and necessary bills, correct?

1 THE COURT: Yes, absolutely.

2 MR. PARKER: Okay, good. That will save us all some time, I
3 believe.

4 MR. CONNOT: Yeah.

5 MR. PARKER: And then, in terms of duration, is there an
6 anticipated duration that you would like to see something? Because Mr.
7 Kemp was thinking at one point 30 days. Mr. Connot, I can't recall how
8 long the time, but I thought it was somewhere --

9 MR. CONNOT: 14ish.

10 MR. PARKER: 14ish. And certainly, I was trying to avoid
11 having to come back and trouble the Court, you know, every 14 -- every
12 2 weeks because we're looking at the salaries every two weeks.

13 THE COURT: Well, and I'll be candid with you, Mr. Parker. I
14 wasn't necessarily contemplating coming back every two weeks
15 because that takes time, but I just have the first orders in place of 14
16 days. Then I was thinking it would be best to come back and potentially
17 re-visit those issues as far as time.

18 And I just want to make sure that there's an ongoing concern
19 here and there's no problems paying vendors and salaries and those
20 types of things.

21 Just as important, too, I mean, I look at it. And there's a lot of
22 issues going on. For example, I wonder -- I contemplate, okay, what
23 decisions I make, what impact do they have on stock prices and
24 valuations?

25 MR. PARKER: Right.

1 THE COURT: Because this is a publicly-traded corporation,
2 right, on NASDAQ?

3 MR. PARKER: Well, I think we all recognize that there's
4 a -- perhaps negative connotation that goes with the word receiver.

5 THE COURT: I mean, I thought about that. I don't
6 mind -- and here's the thing. If we went with a 2:1 setup, one director
7 from Plaintiff's perspective, one from the Defense perspective, and then
8 one neutral that's there for an interim basis, that -- I thought about it.
9 And that gets away from the negative connotation of the "R" word.

10 MR. PARKER: Absolutely.

11 THE COURT: It really does. And so, and under those
12 circumstances, it would be a court-appointed independent.

13 MR. PARKER: Right.

14 THE COURT: Isn't that a different -- that changes the whole --

15 MR. PARKER: Complexion.

16 THE COURT: -- dynamics from a public relations perspective.

17 MR. PARKER: Right.

18 THE COURT: I'm not a business guy. I mean, I do have a
19 degree in business, but it's been a long time. But I'm just looking at it
20 through that lens. And actually, I don't mind saying this, I really do like
21 that idea.

22 MR. PARKER: All right, well, then you may only get two
23 orders then.

24 THE COURT: Yeah, I mean.

25 MR. CONNOT: Well, and I think the concept of why I was

1 thinking the 14-day time frame since we're going to be back here
2 anyway --

3 THE COURT: Yeah.

4 MR. CONNOT: -- whatever order the judge.

5 THE COURT: Yeah.

6 MR. CONNOT: -- you go with, Your Honor, I mean, we may
7 all --

8 THE COURT: Because I know the receiver word, you know, it
9 has a negative connotation --

10 MR. PARKER: Sure.

11 MR. CONNOT: Yeah.

12 THE COURT: -- like the business is going under.

13 MR. CONNOT: Right.

14 THE COURT: And this isn't going under. It's going to
15 continue on.

16 MR. CONNOT: But I think the --

17 THE COURT: I get it.

18 MR. CONNOT: -- the reason for picking a 14-day time period
19 is, you know, we may all by Tuesday go you know what? This is in the
20 order and in, you know, the real world, the consequences aren't that
21 great.

22 Either agree among ourselves the stipulated or have to come
23 back to the Court as the Court has indicated. Well, you don't want to be
24 involved in this, some of those decisions, but you know, we can see
25 where we're at in 14 days, not just with the order that the Court's put in

1 place. And we have our objections to that that we've noted.

2 THE COURT: Yeah.

3 MR. CONNOT: But not just with the order that's in place, but
4 whatever order the Court puts in place now, we can re-visit that. The
5 Court may very well say --

6 THE COURT: Every order --

7 MR. CONNOT: -- I'm going to continue that.

8 THE COURT: Yeah, every order can be re-visited. The only
9 reason I went with the 14 days is to make it more convenient --

10 MR. CONNOT: Uh-huh.

11 THE COURT: -- you know, where you have a short time
12 period. And then, later on -- and then, at that time, I might extend it 30
13 days. I may extend it 60 days, but that was more of an interim --

14 MR. CONNOT: Understood.

15 THE COURT: Right?

16 MR. PARKER: Makes sense.

17 THE COURT: But yes --

18 MR. PARKER: Very well, Your Honor.

19 THE COURT: -- I do like that concept. I will say that. So
20 they're coming back October -- I'm sorry, August 31st at 9:00 a.m.

21 THE CLERK: Correct.

22 THE COURT: Is that fine with everyone?

23 MR. PARKER: Sounds great, Your Honor. Thanks so much.

24 MR. CONNOT: Sounds great.

25 THE COURT: Okay, and everyone enjoy your day.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PARKER: You, too.

MR. KEMP: Thank you.

MR. CONNOT: Thank you, Your Honor.

MR. RULIS: Thank you, Your Honor.

THE MARSHAL: All rise.

[Proceedings concluded at 3:41 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Chris Hwang
Court Reporter