

IN THE SUPREME COURT OF THE STATE OF NEVADA

Vinco Ventures, Inc.,

Petitioner,

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. 85315

Electronically Filed
Sep 20 2022 05:28 p.m.

District Case No. A-22-856404-B
Elizabeth A. Brown
Clerk of Supreme Court

Dept No. 16

**Real Parties in Interest, Lisa King and Roderick Vanderbilt's, Opposition to
Emergency Motion Under NRAP 27(e) to Stay District Court's Orders and
Proceedings Pending Vinco's Interlocutory Appeal as of Right or, in the
Alternative, Emergency Petition for Writ of Mandamus and/or Prohibition
Writ Proceeding**

Theodore Parker, III, Esq.

Nevada Bar No. 4716

Jennifer DelCarmen, Esq.

Nevada Bar No. 12727

PARKER, NELSON & ASSOCIATES, CHTD.

2460 Professional Court, Suite 200

Las Vegas, NV 89128

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

On September 13, 2022, Vinco Ventures, Inc. (hereinafter “Vinco”), moved for emergency relief under NRAP 27(e), to stay the lower court’s August 17 and August 19, 2022 orders, pending the outcome of Vinco’s Interlocutory Appeal as of Right or, in the Alternative, Emergency Petition for Writ of Mandamus and/or Prohibition (hereinafter “Appeal”). Vinco’s Emergency Motion should be summarily denied for failure to properly comply with NRAP 8(a)(1) or (2)(A)(i-ii). However, should this Court choose to accept Vinco’s illusory claim that moving in the district court would be impracticable, the Emergency Motion should still be denied as Vinco has not met the factors outlined in NRAP 8(c). Indeed, until receiving rulings it did not like, Vinco had actively pushed for a quick resolution and prompt hearings. The challenged orders at issue were entered to preserve the status quo and protect Vinco, its employees, and its shareholders, thus there would be no harm to Vinco if its request for a stay is denied. However, there will be great harm to the Real Parties in Interest if a stay is imposed. As such, Vinco’s Emergency Motion is properly denied.

Real Parties in Interest, Lisa King (hereinafter “King”) and Roderick Vanderbilt (hereinafter “Vanderbilt”), join the Response, filed simultaneously by

Respondent/Real Party in Interest Theodore Farnsworth, by reference as though fully stated herein. King and Vanderbilt also provide the following supplemental points in support of denying Vinco’s request for a stay.

II.

ARGUMENT

A. Vinco Failed to Meet the Requirements of NRAP 8(a)(1) or (2)(A)(i-ii)

NRAP 8(a)(1)(A) mandates, by use of the word “must”, that a request for a stay first be made in the district court, or that a showing be made that moving in the district court would be impracticable. Here, Vinco claims the district court denied an oral motion for stay, and that it would be impracticable to move in the district court because the district court indicated it would allow complete briefing on a matter before making a decision.¹ Vinco misses the mark; the oral request was made prior to the filing of the Appeal and there is no showing moving in the lower court would be “impracticable”.

“Impracticable requires the movant to show that it was ‘not capable’ of first seeking relief in the district court or that such an act could not be done.”² This Court

¹ See Emergency Motion at p. 5.

² TRP Fund VI, LLC v. PHH Mortg. Corp., 506 P.3d 1056, 1058 (Nev. 2022) (internal citations and quotations omitted). In TRP Fund VI, the movant argued it was impractical to move in the district court because the district court had previously denied a request for a preliminary injunction, as opposed to showing it was unable

has a “strong policy favoring an initial stay decision from the district court [] based on that court’s vastly greater familiarity with the facts and circumstances of the case and better position to resolve such factual issues...”.³ “[U]nless movants can demonstrate that first asking the district court is truly impracticable, they are required to seek a stay and injunctive relief pending appeal-in the district court even when that court has denied them a preliminary injunction.”⁴ Failure to comply with NRAP 8(a)(1) or (2)(A)(i-ii), bars relief.⁵

Here, there is no reason Vinco could not move for a stay in the district court. Vinco claims it orally asked for a stay, on August 31, 2022.⁶ However, as of August 31, 2022, there was no pending Appeal.⁷ In denying the oral request to stay, without prejudice, the lower court noted that it would be amenable to hearing a request for stay, on order shortening time, but given the factual contentions involved, the lower court wanted to ensure sufficient time was provided to the parties to brief the issues.⁸ Vinco certainly knew how to request hearings on order shortening time as it had

to file in lower court or that the lower court was incapable of granting relief. This was insufficient to meet the requirements of NRAP (8)(a)(2)(A).

³ Id.

⁴ Id. at 1058-1059.

⁵ Id. at 1059.

⁶ See Emergency Motion at p. 5.

⁷ See Appeal, filed September 13, 2022, on file herein.

⁸ See Transcript of Proceedings, dated August 31, 2022, at p. 94:2-96:12, true and correct excepts attached hereto as Exhibit “A”.

previously and even sought quick relief via an *ex parte* Motion for Preliminary Injunction, when it suited Vinco.

Vinco was capable of first filing a request for stay in the district court, but chose not to do so. The district court, who has heard and decided a multitude of motions, and held no less than seven hearings from August 16, 2022 to the present, had both the authority and time to hear a request for stay, but was stripped of its role by what appears to be Vinco's attempt to forum shop.⁹ As the orders challenged were entered to maintain the status quo, Vinco had ample time to seek relief in the district court as required. Vinco simply chose to forgo mandatory procedural requirements without sufficient reason. Vinco's instant request must now be denied as Vinco failed to comply with NRAP 8(a)(1) or (2)(A)(i-ii).

B. Vinco Does Not Meet the Requirements of NRAP 8(c)

In deciding whether to issue a stay, the Court considers the following factors: (1) whether the object of the appeal/writ will be defeated if the stay is denied; (2) whether petitioner will suffer irreparable or serious injury if the stay is denied; (3) whether real party in interest will suffer irreparable or serious harm if the stay is granted; and (4) whether petition is likely to prevail on the merits.

⁹ Vinco did not like the New York Court's decision, thus Vinco voluntarily dismissed its New York action. Vinco now does not like Judge Williams rulings, and is seeking to have this Court decide factual disputes that are more appropriately handled in the first instance by the district court.

Vinco argues it will suffer prejudice if the stay is not granted. However, quite the opposite is true. Vinco will suffer no harm if a stay is denied, but King and Vanderbilt, will suffer great harm if a stay is granted.

Vinco cannot demonstrate irreparable harm because Lisa King is serving as a co-CEO. Lisa King was the CEO of Vinco from October 21, 2022 until the Colucci-induced chaos in July 2022¹⁰ following inquiries into Colucci's independence. King and Vanderbilt vehemently dispute the validity of the July 24, 2022 "board" meeting, which remains an issue in this action. Regardless of whether Ms. King was properly terminated, Vinco provides no evidence Vinco has or will suffer any serious, let alone irreparable, harm on this basis. Zhou v. Deng, No. CV 2021-0026-JRS, 2022 WL 1617218 (Del. Ch. May 23, 2022), an unpublished case, does not support Vinco's contention it has or will suffer any irreparable harm if Lisa King serves as one of three co-CEOs pending resolution of its petition. There, the court denied defendant's request to stay pending the outcome of his appeal, finding in part defendant failed to demonstrate the risk of irreparable harm from alleged unauthorized board action. Id. at *1-4.

///

///

¹⁰ The "Colucci chaos" is more fully described in the Response filed by Real Party in Interest, Ted Farnsworth.

Moreover, no merit exists to Vinco's manufactured contention the Status Quo orders at issue preclude Vinco's board from fulfilling its fiduciary duties.¹¹ Prior to Vinco's Appeal, the board attempted to schedule only one meeting. That meeting did not go forward because the parties instead sought relief from the district court, and then Vinco immediately sought relief from this Court. As of the date Vinco filed its Motion, the board made no attempt to set another meeting, to conduct any business via written consent, or seek order from the district court directing the Board to hold a meeting. Under the Status Quo orders at issue, if any director legitimately believes his or her ability to exercise their 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.¹² Vinco thus cannot demonstrate the Status Quo orders at issue have prevented Vinco's board from fulfilling any duties, let alone demonstrate irreparable harm.

To the contrary, Vinco will almost certainly suffer serious harm if this Court enters a stay. Despite the CEO Lisa King's July 19, 2022 direction to the CFO to not make any additional payments to AI-Pros pending resolution of serious issues, and

¹¹ If there is no reasonable probability of the alleged harm occurring, then a party cannot show it would suffer irreparable harm or serious injury if the stay is denied. Hansen v. Eighth Jud. Dist. Ct., 116 Nev. 650, 658 (2000) (internal citations and quotations omitted).

¹² See August 17, 2022 Order, entered August 18, 2022, a true and correct copy attached hereto as Exhibit "B".

numerous whistleblower complaints alleging collusion between Colucci, the other independent board members, and AI-Pros, among others, to steal Vinco's intellectual property, during the pendency of the *ex parte* TRO, Colucci (purportedly on behalf of Vinco); (1) entered into two additional agreements with AI-Pros. and directing payment of an additional \$3,050,000.00 in funds; and (2) earmarked an additional \$4 million in payments to AI-Pros.¹³ At this same time, Colucci directed over a \$1 million to attorneys, including an \$875,000 payment to attorneys implicated in some of the whistleblower complaints. And, all of this was done despite Vinco's claims to the district court it is in a cash crisis when it suits Vinco's agenda.¹⁴ Absent the district court's Status Quo orders at issue, nothing will stop these individuals from resuming this egregious behavior, going back to improperly raiding Vinco's coffers for their individual benefit, to the detriment of the shareholders and employees. As such, Vinco (not Colucci, DiStasio, Goldstein, and the executives, vendors, and attorneys they are apparently protecting) will suffer serious harm if these individuals are allowed to revert to executing their agenda, unchecked.¹⁵

¹³ See email from Lisa King dated July 19, 2022, a true and correct copy attached hereto as Exhibit "E"; and portion of Vinco ledger provided by Vinco, a true and correct portion attached hereto as Exhibit "F".

¹⁴ See i.e. Transcript of Proceedings, dated August 18, 2022, at p. 16:7-23, true and correct excerpts attached hereto as Exhibit "C"; Exhibit "A" at p. 12:25-13:8.

¹⁵ Sobol v. Capital Management, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986) (concluding, in the context of an injunction, that "acts committed without just cause

Finally, this Court should consider the motivations of Vinco in seeking a stay. Initially, Vinco wanted to quickly move this matter forward; “let’s get this done, get to evidence...”.¹⁶ Vinco initially wanted to move quickly towards a hearing on the competing injunctions. However, now, after losing certain motions in the lower court, Vinco appears to change course and argue a stay is needed to avoid some feigned serious harm. Vinco’s complaints should fall on deaf ears. Vinco did not properly follow the requirements under NRAP 8 as it failed to seek a stay in the district court (after the Appeal was filed) and failed to show the same was impracticable. This alone bars the relief sought. Further, Vinco failed to show it met any of the four factors under NRAP 8(c). As such, Vinco’s Motion is properly denied by this Court.

///

///

///

///

///

which unreasonably interfere with a business or destroy its credit or profits, may do an irreparable injury”).

¹⁶ See Transcript of Proceedings, dated August 17, 2022, at p. 57:9-59:3, true and correct excerpts attached hereto as Exhibit “D”. The lower court, was an is focused on maintaining the corporate health of Vinco, not causing it irreparable harm. Id. See also Exhibit “C” at p. 24:12-24.

III.

CONCLUSION

Based on the foregoing, Real Parties in Interest, Lisa King and Roderick Vanderbilt, respectfully request that this Court deny the Emergency Motion for a Stay.

DATED this 20th day of September, 2022.

**PARKER, NELSON & ASSOCIATES,
CHTD.**

/s/ Theodore Parker, III

THEODORE PARKER, III, ESQ.

Nevada Bar No. 4716

JENNIFER DELCARMEN, ESQ.

Nevada Bar No. 12727

2460 Professional Court, Suite 200

Las Vegas, Nevada 89123

*Attorneys for Real Parties in Interest,
Lisa King and Roderick Vanderbilt*

CERTIFICATE OF SERVICE

I certify that on the 20th day of September, 2022, I submitted the foregoing “Real Parties in Interest, Lisa King and Roderick Vanderbilt’s, Opposition to Emergency Motion Under NRAP 27(e) to Stay District Court’s Orders and Proceedings Pending Vinco’s Interlocutory Appeal as of Right or, in the Alternative, Emergency Petition for Writ of Mandamus and/or Prohibition Writ Proceeding” for filing via the Court’s eFlex electronic filing system. 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 U.S. Mail.

Joel E. Tasca, Esq.
David E. Chavez, Esq.
Andrew S. Clark, Esq.
Joseph E. Dagher, Esq.
BALLAR SPAHR LLP
1980 Festival Plaza Drive, Suite 900
Las Vegas, NV 89135
Attorneys for Petitioner

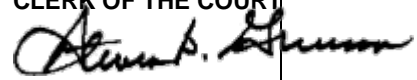
Amy L. Sugden, Esq.
SUGDEN LAW
9728 Gilespe Street
Las Vegas, Nevada 89183
*Attorneys for Nonparty, Court-
Appointed Co-CEO Ross Miller*

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
*Attorneys for Real Parties in Interest,
Theodore Farnsworth and Erik Noble*

The Honorable Judge Timothy Williams
Eighth Judicial District Court, Dept. 16
200 Lewis Avenue, Courtroom 16C
Las Vegas, NV 89155
Respondent

/s/ Staci D. Ibarra
An Employee of Parker, Nelson & Associates, Chtd.

Exhibit “A”



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

VINCO VENTURES, INC.,

Plaintiff,

vs.

THEODORE FARNSWORTH, et
al,

Defendants.

CASE#: A-22-856404-B

DEPT. XVI

BEFORE THE HONORABLE TIMOTHY WILLIAMS, DISTRICT COURT JUDGE
WEDNESDAY, AUGUST 31, 2022

**RECORDER'S TRANSCRIPT OF HEARING
ALL PENDING MOTIONS**

APPEARANCES:

For the Plaintiff:

JOEL TASKA, ESQ.
ANDREW CLARK, ESQ.

For the Defendants:

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

1 And number two, there was a request for a longer period of
2 time at the time. And I think I commented on the record that I would like
3 to re-visit it without having to file motions and all those things because
4 potentially we could have a status check and I could dissolve it if I feel
5 things are appropriately moving on.

6 But go ahead, sir, Mr. Taska.

7 MR. TASKA: Yeah.

8 THE COURT: I don't want you cut you off, sir.

9 MR. TASKA: Yeah, not at all, Your Honor. I think that -- and I
10 don't mean to divert Mr. Parker's issue, but I think that is part of this
11 order. I think you could see from the two motions that we have pending
12 that we've got a lot of problems with the order.

13 And maybe what we should do is put that issue at the end,
14 see how Your Honor rules on the two motions, and then, take up that
15 issue.

16 I mean, one of the problems is --

17 THE COURT: And when you say the two motions, I want to
18 make sure I'm clear. Which two motions do you mean?

19 MR. TASKA: The motion that we just talked about that's not
20 set yet --

21 THE COURT: Right.

22 MR. TASKA: -- on the unanimity requirement for Board
23 meetings and in the motion that we have on for today.

24 THE COURT: I understand. I do, I do.

25 MR. TASKA: Okay, so, you know, one of our problems is this

1 kind of gets to the -- some of the fundamental disagreements between
2 the two sides is we're concerned -- I mean, you know, our client has a
3 fiduciary duty to the shareholders. And it's nothing against the
4 employees, but we got to think about the shareholders and shareholder
5 value.

6 And you know, as Your Honor is aware at this point, the
7 company's in a cash crisis. And I don't know that we want to just agree
8 to another 30 days of this payroll.

9 I think it's something we need to perhaps discuss offline and
10 then bring back to Your Honor. I don't think it's something that -- I mean,
11 we would oppose it if that's the request being made today.

12 THE COURT: All right.

13 MR. PARKER: Your Honor, procedurally, I don't know how he
14 can oppose a status check on the propriety of going forward with the
15 order. I think that's a procedurally incorrect approach to take.

16 Substantively, Your Honor, my client has informed me and has
17 allowed me to express to this Court that she's prepared to waive her fee
18 as a co-CEO in the interest of the company and in the interest of the
19 employees. So I think your order is very important. The maintenance of
20 it is very important.

21 And I think the company and the employees benefit as a
22 whole, including the shareholders because the company depends on the
23 employees to have your order in place.

24 We're concerned about improper spending, I mean, to the
25 tune of the 875,000 that we became aware of last week for legal fees

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.

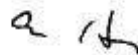
16 MR. PARKER: Thank you, Your Honor. Have a good holiday.

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.

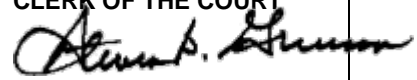
23 

24 _____
25 Chris Hwang
Court Reporter

Exhibit “B”

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

Electronically Filed
8/18/2022 9:53 AM
Steven D. Grierson
CLERK OF THE COURT



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

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

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

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

///

///

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

17 Las Vegas, Nevada 89169

18 *Attorneys for Defendants*

19 *Theodore Farnsworth & Erik Noble*

PARKER, NELSON & ASSOCIATES, CHTD.

12 /s/ Theodore Parker, III

13 THEODORE PARKER, III, ESQ.

14 Nevada Bar No. 4716

15 2460 Professional Court, Suite 200

16 Las Vegas, Nevada 89128

17 *Attorneys for Defendants*

18 *Lisa King & Roderick Vanderbilt*

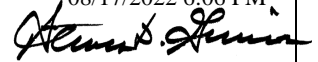
KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kemplones.com

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2022, the foregoing **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** was served on all parties by electronic submission via the court's e-filing system.

/s/ Ali Lott

An employee of Kemp Jones, LLP


CLERK OF THE COURT

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

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

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

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

On August 16 and 17, 2022, Plaintiff Vinco Ventures, Inc.'s ("Vinco Ventures") Motion 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
kjc@kempjones.com

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

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

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

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

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

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

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

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

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.

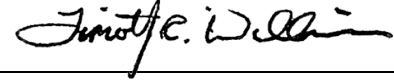
KEMP JONES, LLP
3800 Howard Hughes Parkway
Seventeenth Floor
Las Vegas, Nevada 89169
(702) 385-6000 • Fax (702) 385-6001
kjc@kempjones.com

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.

Dated this 17th day of August, 2022



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

JM

1 **CSERV**

2
3 DISTRICT COURT
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
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/17/2022

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

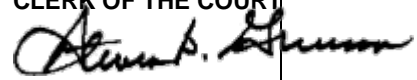
26
27
28

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

Madison Zornes-Vela

m.zornes-vela@kempjones.com

Exhibit “C”



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

VINCO VENTURES, INC.,

Plaintiff,

vs.

THEODORE FARNSWORTH, et
al,

Defendants.

CASE#: A-22-856404-B

DEPT. XVI

BEFORE THE HONORABLE TIMOTHY WILLIAMS, DISTRICT COURT JUDGE
THURSDAY, AUGUST 18, 2022

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

APPEARANCES:

For the Plaintiff:

MARK CONNOT, ESQ.
REX D. GARNER, ESQ.

For the Defendants:

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

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 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
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.

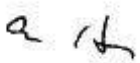
MR. RULIS: Thank you, Your Honor.

THE MARSHAL: All rise.

[Proceedings concluded at 3:41 p.m.]

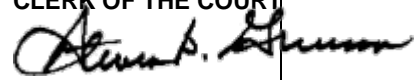
* * * * *

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

Exhibit “D”



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

VINCO VENTURES, INC.,

Plaintiff,

vs.

THEODORE FARNSWORTH, et
al,

Defendants.

CASE#: A-22-856404-B

DEPT. XVI

BEFORE THE HONORABLE TIMOTHY C. WILLIAMS, DISTRICT COURT
JUDGE

WEDNESDAY, AUGUST 17, 2022

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

APPEARANCES:

For the Plaintiff:

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

For the Defendant:
(Theodore Farnsworth)

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

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
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.

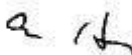
THE COURT: 1:30 tomorrow.

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 “E”

From: Elliot Goldstein elliott@whitedoveequities.com

Subject: Re: Invoices - Prioritized projects

Date: July 19, 2022 at 4:10 PM

To: Lisa King Lking@vincoventures.com

Cc: Philip Jones pjones@vincoventures.com, Rod Vanderbilt rodvanderbiltvin@gmail.com, mike@chair.com, Giovanni Colucci john@hwydata.com



Lisa,

Didn't we agree as a board at the in-person meeting that we held that this is a very important invoice that needs to be paid asap?

Thank you

Elliot Goldstein, Partner

White Dove Equities

908.216.1254

Elliot@Whitedoveequities.com

On Jul 19, 2022, at 3:04 PM, Lisa King <Lking@vincoventures.com> wrote:

Phil,

These are NOT approved to pay today. Please hold for further direction.

Kind Regards,

Lisa King

CEO | P + (315)-420-8036

On Jul 19, 2022, at 2:40 PM, Philip Jones <pjones@vincoventures.com> wrote:

All- - per the attached, the \$975,000 and \$550,000 payments to Ai-Pros are due with the intent of wiring today. I am working under the understanding that these payments have been agreed upon by the group so am working to execute. Please let the group know if you are not in agreement.

Thank you

Phil Jones

Vinco Ventures | CFO

Address: 6 North Main Street, Suite 235, Fairport NY 14450

pjones@vincoventures.com

From: Diana Gonzales <dianadg@ai-pros.com>

Sent: Monday, July 4, 2022 8:49 PM

To: Philip Jones <pjones@vincoventures.com>; Lisa King <lking@zash.global>

Cc: George Yang <georgegy@ai-pros.com>

Subject: Invoices - Prioritized projects

Hello Lisa, Phil,

Exhibit “F”

8/15/2022	8/15/2022	Transfer of funds from Vinco to EN LLC as Vinco Ventu G: U\$	4,000,000.00	4,000,000.00
holding for potential AI-Pros operating				
funding for 1 year				