

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	No. 03 C 3904
v.)	
)	Judge Robert W. Gettleman
KEVIN TRUDEAU,)	
)	
Defendant.)	

ORDER

This matter came before the court for ruling on the motion to intervene (Doc. 793) and for further report on Trudeau's coercive incarceration. For the reasons set forth on the record today and as described below, the court orders as follows:

(1) Motion to Intervene.

Proposed intervenors have moved to intervene into the post-judgment contempt proceedings in the instant action for purposes of attempting to enjoin the court-appointed Receiver, Robb Evans & Associates, from exercising dominion, management, and control over GIN FDN and its assets, which this court has previously ruled were under the dominion and control of defendant Trudeau. That motion is denied.

First, the court concludes that movants cannot establish a right to intervene under Fed. R. Civ. P. 24(a)(2), which requires a court, upon timely motion, to permit intervention by anyone who:

Claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interests, unless existing parties adequately represent that interest.

To prevail on their motion, movants must establish that: (1) the motion is timely; (2) they have an interest relating to the property or transaction at issue; (3) disposition of the action as a practical matter may impair or impeded their ability to protect their interests; and (4) no existing party adequately represents their interest. Ligas ex rel. Foster v. Maram, 478 F.3d 771, 773 (7th Cir. 2007). Failure to establish any of these elements requires denial of the motion. Vollmer v. Publishers Clearing House, 248 F.3d 698, 705 (7th Cir. 2001).

As noted on the record, the instant motion is untimely. The movants all claim to be club members of GIN FDN, which they describe as “an unincorporated association of club members residing all over the world and established under the laws of Nevis Island.” They allege that “no one club member owns the assets of the club,” but that the “assets are jointly owned by its members for the sole use and benefit of its members.”¹

After a lengthy, highly publicized evidentiary hearing, on July 26, 2013, this court held that Kevin Trudeau controlled the assets of many entities (the “Trudeau Entities”) including GIN FDN, and ordered that a receiver be appointed to marshal all of Trudeau’s assets, including the assets of all GIN Entities. Now, after four months of concerted effort by the Receiver to comply with this court’s order, movants attempt to enjoin him from garnering the assets of GIN FDN. The July 26, 2013, order was the result of years of litigation over Trudeau’s control of certain assets, and the issue of his control over the GIN Entities was repeatedly raised and discussed.

¹At the hearing the court indicated that it had not located a proposed complaint for the movants. The court has found the proposed complaint, which was appended as an exhibit to the motion, but notes that it fails to indicate whether movants seek to intervene as plaintiffs or defendants. Instead, it indicates that they seek to intervene solely to seek to enjoin the Receiver from carrying out the court’s directives. Procedurally, movants should be seeking to intervene as defendants, because they are adverse to the FTC’s position (accepted by the court) that Trudeau controls the GIN Entities.

Movants were well aware of these contempt proceedings² and the FTC's attempts to take control of the GIN Entities, but failed to take any action until after the Receiver had complied with the court's directives. They offer no valid justification for their delay, and allowing intervention now would only serve to cause further delay and prejudice by forcing the parties to relitigate issues already decided. Thus, the court concludes that the motion is untimely.

In addition, the interest the movants claim to have that needs protecting is amorphous. To the extent that they claim ownership in GIN FDN assets, the membership documents they each signed indicate just the opposite – that all assets, including intellectual property, is owned by GIN FDN, not its members. Additionally, the Receiver, under the court's direction, has taken steps to continue GIN FDN's operations legally, and is thereby adequately protecting the movants' rights to receive the benefits of their membership. Consequently, the court concludes that the movants' rights are adequately protected by existing parties.

Because the motion is untimely, and because the movants rights are adequately protected by existing parties, the court concludes that movants do not satisfy the requirements of Fed. R. Civ. P. 24(a) for intervention as a matter of right. For these same reasons, particularly because the motion is untimely, the court denies their request for permissive intervention. Consequently, the motion to intervene (Doc. 793) is denied. The motion for preliminary injunction (Doc. 794) is denied as moot.

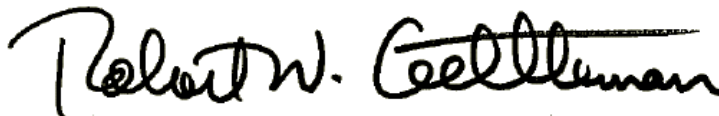
(2) Coercive Incarceration.

The Coercive Incarceration of Kevin Trudeau for civil contempt remains in effect until further order of the court.

²By May 2012 the GIN Entities had hired attorneys and appeared in this court and others to challenge subpoenas issued by the FTC.

(3) This matter is set for a status report on March 19, 2014, at 11:00 a.m.

ENTER: January 30, 2014

A handwritten signature in black ink that reads "Robert W. Gettleman". The signature is written in a cursive style with a horizontal line underneath the name.

Robert W. Gettleman
United States District Judge