

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NATIONSTAR MORTGAGE
LLC,

Plaintiff,

v.

PATRICK JOSEPH SORIA, et
al.,

Defendants.

CV 18-3041 DSF (RAOx)

Order DENYING Motion for
Release From Incarceration
(Dkt. No. 290)

Defendant Patrick Soria has been in custody since June 6, 2018, for civil contempt of this Court's orders. He has now moved for release on the grounds that either he has fully complied, compliance is impossible, or that his compliance is excused by his invocation of his Fifth Amendment rights.

Soria's motion is denied. At the very least, he has failed to persuade the Court that he has complied with the Court's order to "turn over all funds received by the Receivership Defendants since January 23, 2018 to the Receiver." While Soria's counsel represents in Soria's motion that "Mr. Soria has no funds to turn over," Soria Memo. at 8, the Court will certainly not take a representation through counsel as sufficient to establish that Soria has no money to turn over. Nor will the Court accept a flat, sworn declaration to that effect from Soria, were one to be offered. The Receiver is aware of a substantial amount of money generated

from Soria and the other Receivership Defendants' activities that remains unaccounted for. There is no reason to believe Soria does not control some or all of that money absent some showing from Soria beyond a flat denial. It would be a serious understatement to say that Soria has little credibility given his past falsehoods under oath and general contempt of this Court.

Significantly, this is not the common situation where the existence of other money is merely strongly suspected. There is substantial concrete evidence that unaccounted for money was within the possession of Soria and the other Receivership Defendants in the recent past. Indeed, there is evidence of that possession since the establishment of the Receivership. No explanation of where that money went or how or why it is no longer in the possession or control of Soria or the other Receivership Defendants has been forthcoming.

As for the other requirements of the Court's orders, the Court will preface the discussion by pointing out that it has not affirmatively ruled that Soria did not waive his Fifth Amendment privilege. The Court has been operating on the assumption that he has not, but the issue remains open and there is at least a colorable argument that he has waived it in at least some areas. Given that Soria remains in contempt regarding requirements where he clearly has no Fifth Amendment right, the Court need not address the waiver issue at this time.

The Court is not convinced of the Receiver's position that Soria has a duty, either individually or as custodian of Receivership Defendant records, to organize the previously disclosed records of the Receivership Defendants. The Court is willing to entertain further argument on this point, but, for now, there is little evidence that Soria is in contempt of the requirements that he turn over records of the Receivership Defendants.

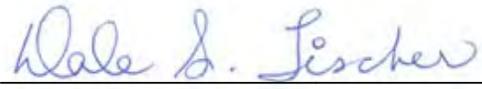
As for the issues surrounding the property on Wellworth Avenue that had apparently been used to store documents and other assets, there may be reason to believe that Soria improperly obstructed access to material stored there in the past. However, it is not clear what order the Court should make regarding future actions Soria could take to purge his contempt.

It has become apparent to the Court that certain other orders need to be made to aid the purposes of the Receivership. Those orders will be made in a separate written document issued by the Court.

The motion for release is DENIED.

IT IS SO ORDERED.

Date: December 10, 2018



Dale S. Fischer
Dale S. Fischer
United States District Judge