

Irving Optical Company Ex-CEO Flees U.S. to Avoid Federal Contempt Order

By Natalie Posgate – (March 11, 2016) – A Dallas federal judge issued contempt charges and an arrest warrant late Thursday night against a Swiss businessman who headed an Irving optical company for violating multiple court orders involving an on-going civil lawsuit.

U.S. District Judge David Godbey ordered that PFO Global ex-CEO Rudolf Suter be “coercively incarcerated” until he provides adequate answers to discovery requests under oath and pay \$27,605 in attorney’s fees to his courtroom opponent, Peter Denton, who is the plaintiff in the case. Judge Godbey also ordered Suter to pay an additional \$8,000 in attorney’s fees within the next 30 days.



Rudolf Suter

It may be too late, however, for Godbey’s order to bring Denton justice. A Deputy U.S. Marshal learned Friday that Suter boarded on British Airways Flight 192 to London on Wednesday at 4:40 p.m., said Bob Allen, the lead attorney for Denton.

“Who knows whether this is the conclusion to the case,” Allen told *The Texas Lawbook*.

Suter headed PFO Global, a manufacturer and commercial provider of lenses and eyewear, until this week. A press release posted Monday on the company’s website announced Matt Cevalco as Suter’s successor.

Thursday’s ruling follows a hearing Judge Godbey held on Wednesday. Suter, who is pro se (representing himself without a lawyer), did not show up. The hearing was Suter’s last opportunity to defend why he should not be held in contempt. Suter declined to comment on the case when *The Texas Lawbook* called his cell phone this week.

“The court finds Suter’s disregard of the court’s orders to be egregious,” Judge Godbey wrote. “The court notes that, in the past, Suter has complied with court orders only when threatened with incarceration. Monetary fines seem to have no effect on his willingness to comply with court orders.”

Thursday’s ruling is the latest production in a long saga of litigation between Suter and Denton, a retired executive and business owner in the optical business from Florida.

It all began in 2011, when an arbitration panel in Switzerland ordered Suter to pay Denton \$2 million in Swiss Francs for a failed business deal between the two in which Suter did not uphold his word in paying back Denton and his company, Harvest Investors, the money they invested in Suter’s Swiss company, Optixx AG.

Shortly after the arbitration award, Suter, according to Denton, fled to the U.S. to avoid paying the fee. Denton turned to the U.S. courts after learning Suter was living a lavish lifestyle in the Dallas area as the new CEO of Pro Fit Optix (now d/b/a PFO Global).

In 2012, Judge Godbey entered a final judgment that confirmed Denton’s foreign arbitration award. Denton’s lawyers sought post judgment discovery (such as current balances of bank accounts held by Suter and his wife) crucial to recovering the \$2 million award – which has since inflated to \$3 million from post judgment interest.

What would happen next is a slew of defiance by Suter in Dallas federal and bankruptcy courts that Allen had never witnessed before in his entire career.

“This is the worst abuse of the civil court system I’ve seen in 31 years,” Allen, who runs his own >

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law practice in Dallas, said at Wednesday's hearing. "We continue to be angered by the persistent violations of court orders by Rudolf Suter, and his absence in court today is just the

latest event in a long run of such dereliction."



Bob Allen

Suter continued to miss deadlines to provide documents to Denton's lawyers to help in their post judgment discovery and provide adequate answers to their questions.

Denton faced a significant roadblock in January 2014, when Suter filed for Chapter 7 bankruptcy. This delayed his proceedings in Judge Horan's court for nearly a year.

The bankruptcy resulted in Suter waiving his discharge from his debts after continually failing to provide ample documentation and attend crucial proceedings. Suter only provided documents and paid \$28,685 in bankruptcy court fees and fines after U.S. Bankruptcy Judge Stacey Jernigan threatened to incarcerate him, Allen said.

"All the bankruptcy did was buy him time," Allen told *The Texas Lawbook*, "and we lost more money than he did" in the proceedings.

When the bankruptcy stay was lifted and matters in district court picked back up, U.S. Magistrate Judge David L. Horan, who took over the case, ordered Suter to pay \$27,605 in attorney's fees Denton's lawyers had incurred and to answer to the discovery requests.

Suter continued following the pattern of failing to pay fees, deliver documents, or show up to depositions and hearings – this week's being the latest.

Meanwhile, Suter proved he was good for the money when evidence of his lavish lifestyle surfaced. According to court documents, this includes:

- Sports cars worth well in the six figures;
- Travel around the world;
- Transfers of tens-of-thousands of dollars to Suter's wife in Switzerland from the PFO Global Payroll;
- A townhouse worth nearly a half-million dollars for his former mistress in Atlanta that Denton's lawyers say Suter's wife funded; and
- A luxury condo in Uptown Dallas with his current mistress.

"He clearly has significant assets," Denton testified in court on Wednesday. "I'm not stupid; I don't spend the kind of money that I [already] have chasing a guy without assets."

After Denton filed two motions for sanctions, contempt and compel (and Suter failed both times to attend the hearings for the motions), Judge Horan recommended Wednesday's hearing in front of Judge Godbey, who as a district judge has the jurisdiction to impose civil contempt penalties.

"The court's entering yet another (third) order directing defendant to pay the fee award would – absent a contempt order to coerce compliance – be unlikely to compel his compliance with the court's orders," Judge Horan wrote in his Jan. 19 memorandum.

The judge also rejected Suter's argument in previous briefing responses that he did "everything in his power" to comply with court orders and discovery obligations, that he "expended considerable time and money collecting and producing the required >



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documents and providing the answers,” and that “it is unreasonable, excessive and a harassment to ask in a different court again for the same discovery” – alluding to the fact that he produced the same answers and documents in his bankruptcy proceedings that Denton’s lawyers currently seek.

The only asset Denton is in the process of recovering so far is the Atlanta townhouse – of which Denton has recently taken title over

and is currently in the process of evicting the residing mistress. However, more than half of the townhouse assets went to the bankruptcy trustee from Suter’s Chapter 7 case and the Internal Revenue Service, Allen said.

Dallas bankruptcy attorney Richard Dafoe – the older brother of famous actor Willem Dafoe – is also representing Denton.

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