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This case involves two consolidated appeals from a proceeding to determine whether Joseph Rensin should be held in contempt for failing to comply with an earlier contempt order. In the first appeal, No. 17-1769, Rensin challenged the district court's order that his eleventh-hour bankruptcy filing did not stay the contempt proceeding under the governmental regulatory power exception to the automatic bankruptcy stay. 11 U.S.C. § 362(b)(4). That case was fully briefed and argued in 2018.

In the second appeal, No. 17-1787, Rensin challenges the district court's order finding him in contempt of its earlier contempt sanctions order. Rensin repeats much of his argument from the first appeal in his opening brief here. Although the FTC believes the issues

STATEMENT OF THE CASE

Eleven years ago, the district court entered a permanent injunction to stop Joseph Rensin and his company, BlueHippo, from illegally deceiving consumers. Rensin ignored the order and continued his deceit, reaping over $13 million in unlawful gains. Ten years ago, the FTC asked the district court to hold Rensin and BlueHippo in contempt, which it did more than eight years ago.[1] Three years ago, it imposed a contempt sanction that Rensin pay back $13 million to consumers.[2] Again, Rensin ignored the court's order. Now, the FTC has asked the court to find Rensin in contempt of the sanctions order, and Rensin has tried to thwart that proceeding with a last-minute bankruptcy petition. Wespny, Btto.o t (m)l

computer within a few weeks. A.0035-36.[3] In reality, BlueHippo imposed onerous terms to "qualify" for credit, including a series of nonrefundable payments which BlueHippo illegally required to be made by preauthorized debit. A.0043. Most consumers failed to qualify and received nothing for their money. A.0040, A.0049. For those who did qualify, BlueHippo failed, for months on end, to ship the computers it had promised. A.0041-42. In 2008, the FTC sued to halt the deceptive practices, which violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and other consumer protection laws. Dkt. 1. BlueHippo did not contest the charges; instead agreed to a consent order that required it to cease its unlawful practices and pay equitable monetary relief for consumer injury. Dkt. 2.

Under Rensin's direction, BlueHippo ignored the consent order and continued its deceptive tactics. In 2009, the FTC asked the district court to hold BlueHippo and Rensin in contempt and to impose a contempt sanction to compensate injured consumers. Dkt. 41. The district court held Rensin in contempt in 2010, ordering him to pay a compensatory sanction for which he was jointly and severally liable with BlueHippo. A.0045-46.

[3] Citations to "A.___" refer to the two-volume appendix previously filed in No. 17-669. The parties have agreed to the deferred filing of a third appendix volume for nonduplicative materials relevant to the appeal in No. 17-1587, to be paginated consecutively from the earlier volumes.

Following theFTC’

proximately $1 million; annuities worth approximately 2 million (funded by Rensin's offshore trust) which paid him $15,000 per month; and several other investment and bank accounts. A.0421. Thereafter, Rensin deliberately attempted to put those assets out of the court's reach. For example, when this Court's 2014 decision signaled that the district court was likely to award a much greater sanction than it had initially, Rensin moved to Florida (which has laws highly protective of homeowners against creditors) and paid cash for a million-dollar house there. A.0131. He then used $2 million from his offshore trust to purchase annuities issued by an offshore insurance company. A.0118-120. And on the very day that the district court in a telephonic hearing outlined the contempt order that it intended to enter, see Dkt. 128, Rensin cleared out his primary bank account and moved the funds into a new account that he claimed was exempt from attachment under Florida law. A.0133-134; A.0196-198; A.0200-201; A.0182-183. Just four days after Rensin was forced in discovery to disclose that account's existence to the FTC, he withdrew most of the money, moved it to a new account at another bank, and claimed that was exempt from attachment. A.0207; see also A.0168, 170, 174.

At the same time, Rensin burned through money that could have been returned to consumers, dining at pricey restaurants, taking vacations, and leasing a series of expensive cars. E.g., A.0209-227; A.0131-132; A.0140-141; A.0143-144.

March 27, this Court issued a temporary administrative stay pending the determination of Rensin's motion on the merits by a three-judge panel. The panel later granted a stay pending the appeal in No. 17-667.

Apparently unaware that a temporary stay had been entered the day before, the district court issued its decision on the merits of the contempt motion on March 28, 2017. A.0417-432. The court held that its initial contempt order was "clear and unambiguous." A.0420. The court noted that it had ordered Rensin to pay $8 million to the FTC within seven days of that order and to secure the remaining balance of the sanction, and, failing those conditions, to pay the full amount of the redress, but found that Rensin had "not paid nor secured any portion of" that amount. A.0420-421. The court held further that despite his contrary contentions, Rensin had assets that could have been applied to the sanctions amount, including the Florida home, the offshore trust, and several other accounts. A.0421-422.

The court determined that the FTC could seek to enforce the sanctions order through contempt and was not required to use the collection procedures of the Federal Debt Collection Practices Act. A.0423. Contempt was an appropriate means to enforce the earlier order so long as the relief is "of the kinds that are traditionally available in equity." A.0422 (quoting Ecopetrol S.A. v. Offshore Exploration & Prod. LLC, 172 F. Supp. 3d 691, 695 (S.D.N.Y. 2016)). Indeed, the court noted that

to pay because of the bankruptcy petition and that he did not control his offshore trust. A.0427428. The court found that in the period following the sanctions order, "Rensin has controlled various assets and decided to spend money on travel, food, a luxury car rental, and hotels," and that "[a]ny of these assets could have been used to make payments, however small, towards satisfaction of the April 19, 2016 Order." A.0428. Accordingly, the court found that "Rensin has not met his burden of establishing 'complete inability, due to poverty or insolvency, to comply.'" Id. (quoting Huber v. Marine Midland Bank, N.A., 51 F.3d 52, 58 (5th Cir. 1995)).

cy case pursuant to 11 U.S.C. §§ 523(a)(2)(A) and 523(a)(6). Final Judgment, FTC v. Rensin, No. 17-ap-1185, ECF No. 113 (Bankr. S.D. Fla. Dec. 14, 2018), appeal docketed, No. 19-80001-RLR, (S.D. Fla. Dec. 28, 2018).

SUMMARY OF THE ARGUMENT

1. The district court's decision to hold Rensin in contempt for failing to comply with its earlier sanctions order was well within its discretion. The order was clear and unambiguous: it directed Rensin to make an initial payment to the FTC and secure the remaining amount; if he failed to comply, he was required to pay the full sanction at once. Rensin ignored those instructions. He made no attempt to comply despite having assets that he could have used to do so.

The district court correctly rejected Rensin's defense that he was unable to comply with the sanctions order. It was Rensin's burden to prove his inability to comply defense through evidence that is clear, plain, and unmistakable, and he failed to meet it. As the district court found, even if Rensin could not pay the full amount, he had to pay what he could. Before he filed his bankruptcy petition, Rensin indisputably had at his disposal assets that could have been used to pay part of the sanction. Rather than make any attempt to comply, Rensin spent lavishly and sought to shelter those assets.

Rensin is not excused from contempt because his assets are now under control of the bankruptcy trustee and he lacks the "present ability" to comply. A self-

imposed inability to comply is not a defense to contempt. Moreover, Rensin's bankruptcy petition does not excuse his non-compliance before he filed the petition.

The contempt order was not a "money judgment" equivalent to damages that could be enforced only through attachment and not through contempt. This case has always been an equitable claim for an injunction and equitable monetary relief under §13(b) of the FTC Act; the agency never sought legal damages. Indeed, in an earlier proceeding in this matter, the Court described the monetary sanction at issue as "disgorgement or equitable restitution." BlueHippo, 762 F.3d at 245.

The Court need not and should not vacate the order holding Rensin in contempt simply because the district court had not yet registered this Court's temporary administrative stay. Instead, to avoid needless delay and the waste of party and judicial resources, the Court should either retroactively lift the temporary stay to remove the timing conflict, or alternatively, construe the district court's order as an indicative ruling and enter a limited remand under Rule 12.1(b) so that the district court may reenter it.

2. The parties briefed and argued the applicability of the automatic bankruptcy stay in No. 17-569 and the Court should not consider further argument, which amounts to an impermissible surreply. The automatic bankruptcy stay does not apply to the contempt proceeding because it was brought by a governmental

agency exercising its regulatory powers. 11 U.S.C. §§ 362(a)(1); 362(b)(4). Specifically, the FTC brought this case under Section 13(b) of the FTC Act to stop BlueHippo's deceptive practices. The initial contempt proceeding was a continuation of that proceeding and sought to halt the same practices (which had continued). This contempt proceeding is a further continuation and the same government interest is at stake—protecting consumers from economic injuries due to deceptive practices.

The contempt proceeding does not fall within the "exception to the exception" that applies when the government seeks to enforce a money judgment. 11 U.S.C. §362. As this Court's cases illustrate, the exception to the exception applies when the government tries to seize or attach the defendant's property. For example, the government may not seek an order to repatriate funds held offshore. SEC v. Brennan, 230 F.3d 65, 73 (2d Cir. 2000). By contrast, the government may seek to freeze assets because that only temporarily suspends use of the frozen funds. SEC v. Miller, 808 F.3d 623, 632 (2d Cir. 2015). Here, the district court's order holding Rensin in contempt does not even rise to the level of a burden on Rensin's assets. It therefore did not amount to enforcement of a money judgment and does not fall within the exception to governmental regulatory power exception to the automatic stay.

A. The sanctions order was clear and unambiguous.

In the contempt sanctions order, the district court imposed a straightforward set of requirements. It ordered Rensin to pay $8 million to the FTC for deposit into a fund for consumer redress. A.0052. It directed Rensin to make that payment within 7 days of April 19, 2016, when the order was issued. Id. The court further ordered Rensin to secure the remainder of the sanction ($5.4 million) through a letter of credit or performance bond within 30 days of the order. A.0052-54. That amount was to be turned over to the FTC for deposit into the consumer redress fund upon the FTC's showing that the initial $8 million would be exhausted. A.0054. The court ordered that if Rensin failed to obey those directives, he would have to pay the full amount immediately. Id. Each of those requirements is clear. There is nothing ambiguous about them.

Rensin argues that the facial clarity of the district court's directives is not enough. Rather, he claims, the order must also have been

to reconsideration the legal or factual basis of the order alleged to have been disobeyed." United States v. Rylander

A.0143-144. His utter disregard for the district court's order is both egregious and uncontested.

C. Rensin did not establish that he was unable to comply

Rensin argues that by virtue of his bankruptcy petition, he lacked (and still lacks) the "present ability to comply" with the district court's sanctions order because

Moreover, Rensin's contention that it would violate

comply. Huber, 51 F.3d at 10. Rensin points to his own testimony to show he lacked control of the trust (Br. 50), but the district court is not required to credit an alleged contemnor's self-serving denials. Huber, 51 F.3d at 10. As explained in Affordable Media, the court's wariness of Rensin's claim that he lacked control was fully justified because offshore trusts are often designed precisely to assist contemnors in making such claims. 179 F.3d at 1241.

Turning to Rensin's post-petition trust income, the district court did not order Rensin to use that income to satisfy the contempt sanction either. See 04-431. While it did express a belief that a reduction in his monthly annuity payments of $15,000 . . . would [not] impoverish Rensin," it offered that view as part of its order—which it stayed during the course of the bankruptcy—that Rensin "meet in good faith with the FTC and negotiate a payment schedule." 04-430. In other words, the court contemplated (but did not order) that the trust income might be used to satisfy the judgment, but only after the bankruptcy stay is lifted or modified. That statement is not inconsistent with Brennan, which involved the repatriation of assets during a bankruptcy case.

D.

384 U.S. 364, 370 (1966). The Federal Rules provide a district court with discretion to hold a "disobedient party in contempt" when, as here, the party "fails to comply" with an order to perform a specific act "within the time specified." Fed. R. Civ. P. 70(e).

Nevertheless, Rensin argues that the district court abused its discretion when it held him in contempt because the sanctions order cannot be enforced through the contempt power at all. According to Rensin, because the sanctions order was a "compensatory damages order rather than a disgorgement order," it was a "money judgment." Br. 33-41. Further, the argument goes, this means that the district court could not enforce its order through contempt; the FTC must seek a writ of execution under Federal Rule of Civil Procedure 69 and the Federal Debt Collection Practices Act. Br. 41-44.

In support of his argument that the sanctions order was necessarily a "money judgment," Rensin invokes the historical divide between law and equity, arguing that "[a] plaintiff cannot transform a claim for damages into an equitable action by asking for an injunction that orders the payment of money." Br. 36 (quoting Ecopetrol S.A. v. Offshore Exploration & Prod. LLC, 172 F. Supp. 3d 691, 695 (S.D.N.Y. 2016)). But this case never involved "a claim for damages." The complaint sought the quintessential equitable remedy of an injunction under Section 13(b) of the FTC Act. Section 13(b) permits courts to grant, in addition to an in-

junction, "ancillary equitable relief, including equitable monetary relief." FTC v. Bronson Partners, LLC, 654 F.3d 359, 365 (2d Cir. 2011) (emphasis added).

The 2008 consent order that resulted from the FTC's complaint then imposed equitable remedies for BlueHippo's violations of the FTC Act. And this Court held in an earlier appeal that the FTC's power to seek equitable monetary relief on behalf of consumers in this very case extended to the contempt proceeding. BlueHippo Funding, 762 F.3d at 243. That contempt proceeding resulted in the sanctions order that Rensin now stands in contempt of. It was "ancillary for damages" on behalf of the FTC, and the sanction that Rensin ignored was not m

ers. 654 F.3d at 373.[6] In an earlier appeal in this case, the Court likewise described the relief that would be ordered as a result of Rensin's contempt as "disgorgement or equitable restitution." BlueHippo, 762 F.3d at 245.

Rensin's heavy reliance on the district court's description of the sanction as "compensatory damages" (Br. 33-34, 36) is likewise misplaced. The district court's description was inaccurate and immaterial. It was inaccurate for the reasons discussed above. It was immaterial as explained in Bronson Partners, where the Court held that the substance of the monetary relief, not its description, controls. 654 F.3d at 372 ("[A]n error in terminology can be harmless so long as the substantive legal standard applied was the correct one."). As in Bronson Partners, and as the Court said earlier in this very case, the substance of the sanction, which sought to make consumers whole, is an equitable remedy. Id. at 373; BlueHippo, 762 F.3d at 245.

Indeed, even the Ecopetrol case—which Rensin principally relies on to argue that the sanctions order could only be enforced through a writ of execution—

[6] Rensin's claim that the sanctions order could not be disgorgement because he did not receive all the proceeds of the fraud himself (Br. 35, 38) is contrary to the Court's holding that "the Commission has no need to rely on common law theories of unjust enrichment," Bronson Partners, 654 F.3d at 371. It also conflicts with the Court's earlier decision in this case that contempt sanctions should seek to "mak[e] whole the victims of the contumacious conduct." BlueHippo, 762 F.3d at 243. The harm from Rensin's contempt was not limited to the amount he personally received.

First, the Court can exercise its "inherent power to enter an order having retroactive effect" to lift the temporary stay, nunc pro tunc, for the period between the temporary stay and the district court contempt order. Iouri v. Ashcroft, 464 F.3d 172, 182 (2d Cir. 2006). Retroactive relief is appropriate to ensure that "the parties shall not suffer" due to the timing of a judicial decree. See Mitchell v. Overman

der, and the district court did that only a short time after this Court's temporary stay. Given that interval, it is clear that the court had already decided the case when the temporary stay issued.

Retroactive relief would not prejudice Rensin. He has not suffered any consequence from the contempt order and would suffer no harm if the Court retroactively lifted the temporary stay. By its terms, the contempt order stayed the limited sanction the district court found appropriate (requiring that Rensin negotiate in good faith with the FTC). And after learning of the temporary stay, the court stayed the order in its entirety for good measure. Because he has suffered no consequence, vacating the order would not provide Rensin any genuine relief. It would, however, result in additional delay and a waste of judicial and party resources. There is no reason to think that the district court would come to a different conclusion if the order were vacated, so it would likely enter the very same order, prompting yet another appeal and another round of needless, repetitive briefing.

Alternatively, if the court does not find a retroactive modification of the temporary stay appropriate, it should construe the district's order to be an indicative ruling under Federal Rule of Appellate Procedure 12.1(b), issue a limited remand so that the district court may enter the contempt order, and then proceed to consider the appeal on its merits.

Federal Rule of Appellate Procedure 12.1(b) permits the Court to remand a case to the district court, while still retaining jurisdiction, for the limited purpose of allowing that court to make a final ruling on the matter based on an earlier indicative ruling. This procedure is often employed along with Federal Rule of Civil Procedure 62.1, which allows parties to seek an indicative ruling from a district court that lacks jurisdiction due to an appeal, but a motion is not mandatory. Courts regularly construe district court decisions rendered during an appeal as indicative rulings despite the lack of a motion for an indicative ruling in the district court. For example, finding that "the district court's intent . . . was clear," the Eleventh Circuit recently construed an order (which the district court lacked jurisdiction to enter) as an indicative ruling, and entered a limited remand so that the district court could enter that order. FTC v. Vylah Tec LLC, No. 19-10325 (11th Cir. Feb. 26, 2019). Other courts likewise "have been willing to construe district court actions as indicative rulings even when no FRCP 62.1 motion . . . was filed." Madrid v. Garcia, 874 F.3d 1118, 1121 (9th Cir. 2017) (collecting cases). If the Court declines to retroactively modify the temporary stays, it should employ that procedure here to avoid the waste of time and resources that would result from vacating the district court's order.

The stay does not apply, however, to actions brought by an agency of the government to enforce its "police and regulatory power." In particular, the bankruptcy code exempts from the automatic stay:

> the commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power[.]

11 U.S.C. § 362(b)(4).

The purpose of this exception is to prevent a debtor from "frustrating necessary governmental functions by seeking refuge in bankruptcy." City of New York v. Exxon Corp., 932 F.2d 1020, 1024 (2d Cir. 1991) (internal quotation marks omitted). Accordingly, a bankruptcy petition does not stay an action by the government to enforce its regulatory power unless the government's action is the "enforcement of . . . a money judgment." 11 U.S.C. § 362(b)(4). The enforcement-of-money-judgment proviso is commonly referred to as the "exception to the exception."

B. The contempt proceeding was exempt from the automatic stay under the governmental regulatory power exception.

The governmental regulatory power exception applies here. As this Court has explained, Congress intended that the automatic stay would not apply "if a governmental unit is suing a debtor to prevent or stop violation of fraud, con-

sumer protection, . . . or similar police or regulatory laws, or attempting to fix damages for violation of such a law." Brennan, 230 F.3d at 71 (citing H.R. Rep. No. 95-595, at 343 (1977); S. Rep. No. 95-989, at 52 (1978)).

That describes this case. The contempt proceeding at issue in this appeal is not separate from the underlying FTC enforcement action—they are parts of the same case. The contempt proceeding advances the very same government enforcement interests as the earlier phases of the case: to protect consumers from economic injuries arising from Rensin's deceptive practices. BlueHippo Funding, 762 F.3d at 243. The contempt proceeding is thus no less an exercise of the FTC's regulatory power than the underlying enforcement action or the initial proceeding that found Rensin and BlueHippo in contempt of the district court's consent order.

At each step of the enforcement process, the FTC has sought to protect consumers from harm resulting from BlueHippo's unfair and deceptive acts or practices by seeking remedies appropriate to the posture of the case. The FTC originally sued BlueHippo for practices that violated the FTC Act, seeking an injunction under Section 13(b) of the Act. Courts have consistently held that such proceedings

fall within the exception to the automatic stay.[8] When Rensin continued those practices despite the order that prohibited them, the FTC sought to halt the violation—and Rensin's disobedience of the district court's order—by seeking an order holding Rensin in contempt. Dkt. 42. The FTC brought the contempt proceeding in the same case as the FTC'

fort to halt the continuing harm from Rensin's conduct was an exercise of its regulatory power to protect consumers.[9]

In the analogous context of securities fraud, courts have consistently held that contempt proceedings fall within the governmental unit regulatory exception. *See, e.g.*, *SEC v. Bilzerian*, 131 F. Supp. 2d 10, 14–15 (D.D.C. 2001) (civil contempt proceeding to address defendant's violation of a securities-fraud disgorgement order);[10] *SEC v. Kenton Capital, Ltd.*, 983 F. Supp. 13, 14–15 (D.D.C. 1997) (same). Notably, in *Brennan*—a contempt action for violations of an SEC disgorgement order—this Court accepted without question that the proceeding was an exercise of the agency's "police and regulatory power." 230 F.3d at 71. The only question was whether a particular order in that proceeding fell within the "exception to the exception." *Id.* As explained next, the contempt proceeding held in this case did not.

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[9] In *FTC v. Trudeau*, No. 1:03-cv-3904 (N.D. Ill. Apr. 26, 2013), the court held that an FTC contempt action for failure to pay a compensatory contempt sanction was not stayed because its principal purpose was to redress the economic harm to consumers caused by the defendant's fraudulent practices. The opinion in *Trudeau* was submitted to the district court and can be found at A.2273–2303.

[10] In *Bilzerian*, the court held that the contempt proceeding was excepted from the automatic stay both because it involved government enforcement and also because contempt would vindicate the court's own authority to enforce its orders. The court found that Congress could not have intended to "permit a party to blatantly violate direct orders of the court and then seek shelter through a bankruptcy stay," and held that a "court must retain the ability to compel compliance with its orders" and that bankruptcy is not a "free [pass] to run rampant in flagrant disregard of the powers of the court." 131 F. Supp. 2d at 15 (citation omitted).

C. The contempt proceeding was not within the "exception to the exception."

The Bankruptcy Code provides a narrow exception to the exception for governmental "enforcement" of a "money judgment." 11 U.S.C. § 362(b)(4). Contrary to Rensin's argument, the proceeding to determine his contempt of the district court's sanctions order does not qualify.

1. The contempt order does not enforce a money judgment.

As the Third Circuit has explained, "[t]he paradigm" for a proceeding to enforce a money judgment is "when, having obtained a judgment for a sum certain, a plaintiff attempts to seize property of the defendant in order to satisfy that judgment. It is this seizure of a defendant debtor's property . . . which is proscribed by subsection 362(b)(5)."[11] Penn Terra, Ltd. v. Dep't of Envtl. Res., 733 F.2d 267, 275 (3d Cir. 1984). The application of the "exception to the exception" thus depends on whether a proceeding following an order of monetary relief in favor of the government is (or is analogous to) an attempt to seize the defendant's property.

This Court's decisions illustrate the difference between orders that fall within the exception to the exception and those that do not. In Brennan, for example, the Court determined that a post-judgment order requiring the defendant to repatriate assets he had moved abroad amounted to the enforcement of a money judgment

[11] Congress incorporated subsection (b)(5) into subsection (b)(4) in 1998. See Pub. L. No. 105-277, § 603, 112 Stat. 2681 (1998); Brennan, 230 F.3d at 74.

relief against a particular party. Thus, the Court analyzed the order at issue to determine whether it amounted to an "impermissible enforcement of a money judgment" or instead was simply one of the "many or most aspects of statutorily unstayed governmental unit action[s]." 808 F.3d at 632. The Court looked to the particular relief sought, the procedural posture of the case, and the policy concerns behind the stay and the regulatory exception. See id. at 632-635.

Rensin is also incorrect to argue (Br. 27) that all proceedings following the entry of an order for monetary relief are prohibited. He relies heavily on this Court's statement that "anything beyond the mere entry of a money judgment

Rensin's argument is foreclosed by this Court's decision in Miller, which "decline[d] to adopt" that very argument. The Court rejected the idea that every aspect of a proceeding is stayed so "long as the initial complaint sought monetary relief." 808 F.3d at 632. The Court explained instead that its "focus remains whether a given order constitutes 'enforcement of a judgment other than a money judgment.'" Id. at 633 (emphasis added). Likewise in Brennan, the Court analyzed the particular order on appeal, not the entirety of the contempt proceeding. See 230 F.3d at 70.

The contempt proceeding fits within the text of the governmental unit exception to the bankruptcy stay precisely because it is the "continuation" of the 13(b) action to enforce the FTC's regulatory power. 11 U.S.C. §362(b)(4). The "continuation" includes the "enforcement of a judgment" such as the sanctions order that the FTC sought to enforce here, so long as, the enforcement did not "rise to the level of impermissible enforcement of a money judgment" by reaching Rensin's assets. Miller, 808 F.3d at 632.001 Tc -0.001 T[h.54ct(emphasis a8i 20.5 (,)3.1 (t)1.1 s a

stay, and not within the exception to the exception.[14] Rensin nevertheless argues that the exception to the exception always applies because "actions for civil contempt are considered private collection devices and within the ambit of the automatic stay." Br. 22-23 (quoting In re Siskin, 231 B.R. 514, 519 (Bankr. E.D.N.Y.

the purpose of an individual creditor" and thus was not "seeking to protect the 'health, safety and welfare' of the public." Id. at 692. There is no similar suggestion

through enforcement of its decree." McComb v. Jacksonville Paper Co., 336 U.S. 187, 194 (1949).

CONCLUSION

The district court's order holding that the automatic bankruptcy stay did not apply and its order adjudging Rensin in contempt should be affirmed. With regard to the latter order, the Court should retroactively lift the temporary stay issued in No. 17-669 for March 28, 2017, the day the contempt order was filed by the district court. Alternatively, the Court should construe the district court's order to be an indicative ruling, retain jurisdiction during a limited remand to allow the district court to enter that order, and then affirm it.

Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

JOEL MARCUS
Deputy General Counsel

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/s/ Theodore (Jack) Metzler
THEODORE (JACK) METZLER
Attorney

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Of Counsel:
DOUGLAS WOLFE
AMANDA BASTA
FEDERAL TRADE COMMISSION
Washington, D.C. 20580