

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 10-30631-WRS
Chapter 7

ALLEGRO LAW LLC,

Debtor

CARLY B. WILKINS, TRUSTEE,

Plaintiff

Adv. Pro. No. 11-3007-WRS

v.

AMERICORP INC., SETON INC.,
and TIMOTHY McCALLAN,

Defendants

**ORDER: (1) FINDING TIMOTHY McCALLAN IN CONTEMPT
OF COURT, AND (2) REQUIRING HIM TO PURGE
HIMSELF OF CONTEMPT**

This Adversary Proceeding came before the Court for hearing on October 6, 2016.

Plaintiff Carly Wilkins was present in Court in person and with counsel Steve Olen and Lucy E. Tufts. Defendant Timothy McCallan was present in Court in person and with counsel Michael A. Fritz, Sr. No appearance was made for Defendants AmeriCorp, Inc., or Seton, Inc.

Plaintiff Wilkins served Requests for Production of Documents and Interrogatories on each of the Defendants. (Docs. 372 and 373). None of the Defendants responded and Wilkins filed a motion to compel on June 24, 2016. (Doc. 375). On August 9, 2016, the Court granted Wilkins' motion to compel, ordering the Defendants to file responses within 7 days. (Doc. 383).

Defendants AmeriCorp and Seton made no response and McCallan served but did not file untimely responses in the latter part of September, 2016.

Wilkins filed a motion for sanctions, contending that Defendants AmeriCorp and Seton should be held in contempt for not responding as ordered. (Doc. 386). Moreover, Wilkins contends that McCallan should be sanctioned because his responses were incomplete or erroneous in many respects. McCallan testified for approximately an hour and a half at the October 6, 2016 hearing.

Defendants AmeriCorp and Seton are held in contempt of court. Even if they are defunct, as urged by Mr. Fritz, they may still act through McCallan, who owns both of them and who has the authority to act on their behalf. At this juncture, it does not appear that, other than making a finding of contempt, any purpose would be served by taking further action against these Defendants.

Defendant McCallan is found to have willfully violated this Court's Order of August 9, 2016. Many of his responses are incomplete and known by him to be incomplete. Moreover, McCallan's position, that he did not have to produce documents because the Plaintiff has obtained documents from his accountants and banks, is without merit. McCallan is under a duty to respond truthfully and accurately to the Interrogatories and Request for Production of Documents. That other persons may be responding to separate subpoenas does not, in any way, relieve him of his obligations. The Court further notes that it finds McCallan's testimony that he is unaware of his sources of foreign income is incredible.

ORDERED, that Defendant Timothy McCallan is found to be in contempt of court for his failure to truthfully and accurately answer Interrogatories and to respond to a Request for Production of Documents.

ORDERED, that McCallan shall, not later than October 18, 2016, serve and file answers to the Interrogatories and respond to the Request for Production of Documents.

Done this 6th day of October, 2016.



United States Bankruptcy Judge

c: Steve Olen, Attorney for Plaintiff
Lucy E. Tufts, Attorney for Plaintiff
Michael A. Fritz Sr., Attorney for Defendants