

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**AAL USA, INC.,**

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**Plaintiff,**

**v.**

**CASE NO. 2:16-cv-02090-KOB**

**BLACK HALL, LLC, *et al.*,**

**Defendants.**

**EMERGENCY MOTION TO SHOW CAUSE**

Plaintiff AAL USA, Inc. ("AAL" or "Plaintiff") moves the Court to order Defendants Paul Daigle ("Daigle") and Keith Woolford ("Woolford") to show cause why they should not be held in contempt of court for failing to provide to AAL (1) the username and password for AAL to access the U.S. Department of Treasury's Electronic Federal Tax Payment System ("EFTPS") and (2) the records needed by AAL to prepare W-2s and 1099s for its 2016 employees. AAL states the following as grounds for its motion:

**I. INTRODUCTION**

1. This is an emergency motion because AAL is required to send its 2016 employees W-2s and 1099s by January 31. W-2s and 1099s cannot be completed overnight, and yet Daigle and Woolford and their counsel have refused

to provide to AAL AAL's own username and password<sup>1</sup> for accessing EFTPS and the payroll information and records required for AAL to meet its obligations under federal law. Daigle and Woolford have refused to take the minimal steps required of them.

2. AAL is an Alabama-based aviation solutions provider that offers services to customers for fixed and rotary-wing aircraft. AAL brought this suit after its owner discovered that two former employees of AAL, Daigle (the former CEO) and Woolford (the former CFO), had defrauded AAL, violated their fiduciary duties to AAL, and converted millions of dollars of AAL's assets in a series of schemes. Daigle and Woolford, acting in concert with others and at times acting through corporate entities that they own and/or control, used AAL's money to purchase themselves and their friends and families vacations and personal luxuries, used AAL's money to buy private houses, used AAL's money to buy a private jet to be owned through Corvis Arrow and Cold Harbor (companies that they own and control), gave themselves hundreds of thousands of dollars in unauthorized bonuses, usurped corporate opportunities, misappropriated the intellectual property and confidential information of AAL, and violated their obligations to AAL through various other acts and omissions.

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<sup>1</sup> As former officers of AAL, they were primarily in charge of these filings; however, that terminated when they resigned from AAL – or in September 2016. They, however, refuse to allow AAL access to the site to change administrators to new AAL employees.

3. The culmination of Daigle and Woolford's schemes was to manufacture an apparent crisis and try to leverage the apparent crisis to get AAL's owner Oleg Sirbu ("Sirbu") to sell AAL's assets. They did so in September 2016, falsely claiming that AAL would lose every contract it had unless there was an immediate transfer of the company's assets and change in ownership, and an Asset Purchase Agreement ("APA") was signed, though the transaction never closed because Sirbu began to uncover Daigle's and Woolford's fraud. Daigle and Woolford have taken the position that the APA transferred substantially all of the assets and liabilities of AAL to Black Hall Aerospace, Inc. ("BHA").<sup>2</sup>

4. In November 2016, AAL sought a TRO and Preliminary Injunction in the Circuit Court of Jefferson County, Alabama, where the case was filed, to freeze millions of dollars Daigle and Woolford had stolen from AAL and put into BHA accounts and to require the Black Hall Defendants to provide AAL its usernames and passwords. A hearing was set for November 17. Before the hearing began, AAL and the Black Hall Defendants,<sup>3</sup> reached an agreement for a stipulated order.

5. That order, which Judge Carole Smitherman entered on November 18, requires among other things that BHA<sup>4</sup> provide to AAL "all usernames and

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<sup>2</sup> AAL is BHA's parent company, and BHA was formed to obtain a 14 CFR Part 145 certification from the FAA. In 2016, Daigle represented to Sirbu that ownership of BHA had been transferred to AAL.

<sup>3</sup> The "Black Hall Defendants" are Daigle, Woolford, Black Hall, LLC, Corvis Arrow, LLC, Cold Harbor Certifications, Inc., Hindsight Coffee, LLC,

<sup>4</sup> AAL voluntarily dismissed BHA.

passwords for all AAL USA commercial, U.S. Government, and NATO accounts." *See* Order (Ex. 1), ¶ 2. The order further provides that "[t]he Parties are ordered to take all steps necessary to accomplish the actions ordered..." *Id.* at ¶ 3.

6. Despite Judge Smitherman's order, Daigle and Woolford have refused to provide basic tax information required to be provided under the order and payroll information needed to complete the preparation of tax forms for AAL's 2016 employees, many of which are not BHA employees.

7. There is no justification for Daigle and Woolford refusing to give AAL EFTPS access. Without any legitimate justification, Daigle and Woolford have refused to provide the EFTPS username and password. This is a blatant and flagrant violation of Judge Smitherman's order.

8. Daigle and Woolford have also refused to provide to AAL the payroll information it needs to complete tax forms. Their counsel contend that the reason is that Daigle and Woolford are concerned about confidentiality, *see* January 4-9, 2017 emails (Ex. 2), but AAL already has the supposedly confidential portions of the information because AAL has access to the same information via Alabama Department of Revenue information.

9. Daigle and Woolford have also proposed that BHA engage ADP to complete tax reporting and "pro-rate" the cost. But this would not resolve the violation of Judge Smitherman's order or allow AAL to make its federal tax

payments and filings, and AAL should not be required to pay ADP (a vendor that fouled up previous tax documents) at BHA's whim. AAL's need to access the EFTPS site will be a recurring event.

10. For those reasons, AAL respectfully requests that the Court grant it emergency relief and order Daigle and Woolford to show cause why they have not provided to AAL (1) the username and password for AAL to access the U.S. Department of Treasury's Electronic Federal Tax Payment System and (2) the payroll records needed by AAL to prepare W-2s and 1099s for its 2016 employees.

## **II. ARGUMENT**

### **A. Daigle and Woolford are violating Judge Smitherman's November 18 order.**

11. On November 18, Judge Smitherman entered an order requiring the Parties to "take all steps necessary to accomplish" BHA providing to AAL "all usernames and passwords for all AAL USA commercial, U.S. Government, and NATO accounts." Ex. 1.

12. Though this case has been removed from the Circuit Court of Jefferson County, Alabama, Judge Smitherman's order remains in effect. *See* 28 U.S.C. 1450 (providing in pertinent part that "[a]ll injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court.").

13. Despite repeated requests, Daigle and Woolford have failed to provide the username and password for AAL to access its account with EFTPS.<sup>5</sup> AAL needs to use its EFTPS account to, among other things, pay its federal taxes and submit IRS Form 940s and 941s. An IRS 940 is an Employer's Annual Federal Unemployment (FUTA) Tax Return, and to AAL's knowledge, Woolford did not complete the 2016 submission before leaving AAL. An IRS 941 is an Employer's Quarterly Federal Tax Return. There is simply no excuse for Daigle and Woolford's continued refusal to provide the username and password for EFTPS. AAL's counsel specifically asked counsel for Daigle and Woolford if there was any basis for violation of the order in not providing the username and password. Daigle and Woolford's counsel refused to address the issue.

14. Disobedience of an order (even an invalid one, which is not the case here) is grounds for a finding of contempt. *See In re Novak*, 932 F.2d 1397, 1401 (11th Cir. 1991) (discussing criminal contempt). *See also* FED. R. CIV. P. 70(e).

15. Further, "consent decrees are a kind of court order. Parties must obey them, therefore, like court orders, and violation is punishable by contempt." *Citizens Concerned About Our Children v. Sch. Bd. of Broward Cty., Fla.*, 193 F.3d 1285, 1292 (11th Cir. 1999).

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<sup>5</sup> AAL also needs access to its account with the Alabama Department of Labor so that it can meet its obligations under Alabama unemployment laws and regulations.

16. Daigle and Woolford have refused to comply with Judge Smitherman's order; specifically, they have refused to provide AAL its own username and password for the Department of Treasury's Electronic Federal Tax Payment System. Accordingly, this Court should hold them in contempt and order them to immediately provide the username and password to AAL.

**B. The Court should order Daigle and Woolford to immediately provide AAL its payroll information for its 2016 employees.**

17. Beyond the username and password for EFTPS, AAL has repeatedly requested its payroll information for its 2016 employees. Daigle and Woolford have refused to provide that information. This refusal is utterly unjustified.

18. It is undisputed that AAL is required by law to provide W-2s and 1099s to its employees on January 31, 2017.

19. In order to prepare these forms for its 2016 employees, AAL needs its payroll information for its employees.<sup>6</sup> But Daigle and Woolford have taken and refused to provide this information to AAL. *See* Ex. 2. This AAL information is of absolutely no use to Daigle and Woolford.

20. Instead, Daigle and Woolford, and their counsel, have taken the position that AAL should be denied access to the information (its own payroll information) and that AAL should pay some portion of having BHA's chosen

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<sup>6</sup> In order to complete its tax forms, AAL needs payroll records and vendor payment records for over \$600. There is nothing difficult about completing this task; it could easily be accomplished by simply giving AAL QuickBooks records.

vendor do the work. Daigle and Woolford, however, have not offered any coherent basis for their position. They argue that employee confidentiality is an issue, but these were AAL's employees (until, at the earliest, September 29) and AAL already has the information that could theoretically be considered confidential because AAL has access to information on the Alabama Department of Revenue website.

21. Moreover, AAL should not be required to hire ADP to do the task of preparing the task forms for its 2016 employees. AAL has recently had a bad experience working through ADP, and it has had more than a bad experience working through BHA. AAL should be returned its own payroll information and allowed to meet its obligations under the Internal Revenue Code as it sees fit and as the law requires.

22. AAL is entitled to its own payroll information. Daigle and Woolford have no grounds for refusing to provide it, and this Court should require its immediate production so that AAL can meet its obligations under the law.

### **III. REQUESTED RELIEF**

**WHEREFORE**, AAL respectfully requests that the Court hold an emergency hearing and order Daigle and Woolford to show cause why they have not provided to AAL (1) the username and password for AAL to access the U.S. Department of Treasury's EFTPS and all other federal and state agencies, and (2)



the payroll records needed by AAL to prepare W-2s and 1099s for its 2016 employees. AAL further requests that the Court require Daigle and Woolford to produce the requested information immediately.

Date: January 10, 2017

*s/ Victor L. Hayslip*

\_\_\_\_\_  
Victor Hayslip

*One of the lawyers for the Plaintiff*  
AAL USA, INC.

**OF COUNSEL**

Michael K. K. Choy  
Kip A. Nesmith  
Benjamin B. Coulter  
James Fob, IV  
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vhayslip@burr.com  
knesmith@burr.com  
bcoulter@burr.com  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document by Notice of Electronic Filing, or, if the party served does not participate in Notice of Electronic Filing, by U.S. First Class Mail, hand delivery, fax, or email on January 10, 2017:

James H. Richardson  
RICHARDSON MAPLES, P.C.  
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Benjamin R. Little  
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*s/ Victor L. Hayslip*  
\_\_\_\_\_  
OF COUNSEL

# EXHIBIT 1



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM DIVISION**

AAL USA, INC.,	)	
Plaintiff,	)	
	)	
V.	)	Case No.: CV-2016-904241.00
	)	
DAIGLE PAUL,	)	
WOOLFORD KEITH,	)	
BLACK HALL, LLC,	)	
HINDSIGHT COFFEE, LLC ET AL,	)	
Defendants.	)	

**Order**

A hearing was set in this case on AAL USA, Inc.’s (“AAL USA”) motion for temporary restraining order. The Defendants Black Hall Aerospace, Inc.; Black Hall, LLC; Corvis Arrow, LLC; Cold Harbor Certifications, Inc.; Hindsight Coffee, LLC; Paul Daigle; and Keith Woolford (collectively, “Defendants”) also have filed “Defendants’ Motion to Dismiss Due to Abatement, or Transfer and Consolidate.” AAL USA and Defendants (collectively, the “Parties”) appeared via counsel.

Prior to formal consideration of these motions, the Court was informed that the Parties had reached an agreement resolving certain of the issues pending between them related to their ongoing activities, and that they have agreed to the entry of an order of the court formalizing that agreement. The Defendants have fully reserved their claims concerning dismissal or transfer, and the entry of this order is without prejudice to or a waiver of any such position. The Parties have further stipulated, and the Court determines, that entry of this order shall not be deemed a waiver of any claim or defense which may be asserted by any party.

Pursuant to the terms of the Parties’ agreement, the Court enters the following consent order between the Parties, and it is hereby ORDERED:

1. Black Hall Aerospace, Inc. (“BHA”) shall immediately transfer three-million

and four-hundred thousand dollars (\$3.4 million) into an account at IberiaBank in the name of AAL USA, Inc. and Black Hall Aerospace, Inc. (the “Account”). No funds shall be disbursed from the Account absent mutual written consent of both AAL USA and BHA or further order of the Court. AAL USA and BHA shall have access to any information related to said account.

2. BHA shall immediately provide to AAL USA all usernames and passwords for all AAL USA commercial, U.S. Government, and NATO accounts. This shall include, but is not limited to, the usernames and passwords for Dun & Bradstreet (“DUNS”), Commercial and Government Entity (“CAGE”) Code, Joint Contingency Contracting System (“JCCS”), NATO Support and Procurement Agency (“NSPA”), the AAL USA ADP portal, and AAL USA’s Department of State Directorate of Defense Trade Controls Registration Account.
3. The Parties are ordered to take all steps necessary to accomplish the actions ordered, including but not limited to signing account-opening documents, signature cards, and/or any other needed bank documents.
4. A hearing on Defendants’ Motion to Dismiss Due to Abatement or Transfer and Consolidate is set for December 14, 2016, at 10:30 a.m.

**DONE this 18<sup>th</sup> day of November, 2016.**

**/s/ CAROLE C. SMITHERMAN**  
**CIRCUIT JUDGE**

# EXHIBIT 2

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**From:** Hayslip, Victor  
**Sent:** Monday, January 09, 2017 8:06 AM  
**To:** James H. Richardson; Steakley, Rod (rsteakley@sirote.com); Benjamin R. Little  
**Cc:** Nesmith, Kip; Coulter, Benjamin; James, Fob  
**Subject:** RE: RE: Tax Info

**Jim, while you may think it is sound, do you dispute that my client already has the very info upon which you express concern? That seems to be the only issue you raise, furthermore, there's a protective order in place. Lastly, you make no response to the fact your client is already under an existing order to provide password/login and is violation for this failure. Is there any justification for not providing this information because we are preparing a show cause motion and see absolutely none.**

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**From:** James H. Richardson [<mailto:jim@richardsonmaples.com>]  
**Sent:** Friday, January 06, 2017 5:06 PM  
**To:** Hayslip, Victor; Steakley, Rod (rsteakley@sirote.com); Benjamin R. Little  
**Cc:** Nesmith, Kip; Coulter, Benjamin; James, Fob  
**Subject:** RE: RE: Tax Info

Vic,

We think our proposal is sound. We know that our concerns are well-founded.

To better understand the tax accounting perspective, we are consulting with a CPA. We expect to get an opinion on this by early next week. I will be back in touch as soon as I have that.

I am advised that the W-2 deadline is January 31, so we should have enough time to resolve this in an orderly fashion.

Have a nice weekend.

Jim

James H. Richardson  
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P. O. Box 18667  
Huntsville, AL 35804-8667  
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Direct: (256) 382-5175  
Facsimile: (256) 533-2441  
Toll Free: (877) 809-6974  
Web: [www.richardsonmaples.com](http://www.richardsonmaples.com)

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**From:** Hayslip, Victor [<mailto:vhayslip@burr.com>]  
**Sent:** Friday, January 6, 2017 11:01 AM  
**To:** James H. Richardson <[jim@richardsonmaples.com](mailto:jim@richardsonmaples.com)>; Steakley, Rod ([rsteakley@sirote.com](mailto:rsteakley@sirote.com)) <[rsteakley@sirote.com](mailto:rsteakley@sirote.com)>; Benjamin R. Little <[blittle@Sirote.com](mailto:blittle@Sirote.com)>  
**Cc:** Nesmith, Kip <[knesmith@burr.com](mailto:knesmith@burr.com)>; Coulter, Benjamin <[bcoulter@burr.com](mailto:bcoulter@burr.com)>; James, Fob <[fjames@burr.com](mailto:fjames@burr.com)>  
**Subject:** RE: RE: Tax Info

**Jim, as a follow up to the below, additional reasons why what Keith is saying does not make sense is that the concern for identity protection is simply not a real concern. The names and social security numbers are already items to which AAL USA has access since AAL USA has the Alabama Dept of Revenue information which was the subject of the joint conference call last week. In fact, that info reflects penalties that had been imposed on AAL USA which would indicate that Woolford had either filed late or incorrect information. Please talk with BHA and let's get this issue resolved.**

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**From:** Hayslip, Victor  
**Sent:** Friday, January 06, 2017 10:23 AM  
**To:** 'James H. Richardson'; Steakley, Rod ([rsteakley@sirote.com](mailto:rsteakley@sirote.com)); Benjamin R. Little  
**Cc:** Nesmith, Kip; Coulter, Benjamin; James, Fob  
**Subject:** RE: RE: Tax Info

**Jim, this makes absolutely no sense. Disregarding the litigation, this is information that AAL USA or Oleg had access to for none months last year. Nothing confidential or sensitive from that respect. Regardless, AAL USA is under a legal obligation to get the W-2s out and the failure to do so not only results in penalties for which BHA and its officers would be responsible, but BHA's current employees will be unable to file their tax returns (or receive any refunds). This is not something AAL USA intends to engage in the gamesmanship about which Mr. Woolford is apparently directing. Either provide the information (including the password/login information that is already required pursuant to the existing court order), or AAL USA will have no option other than to institute legal**



**action. It is ridiculous that you and I are having to spend time on this administrative stuff when we both have more substantial issues we need to address in the litigation between our clients. Please let me hear from you today by close of business. I plan to be here unless the "snow storm" arrives today.**

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**From:** James H. Richardson [<mailto:jim@richardsonmaples.com>]  
**Sent:** Thursday, January 05, 2017 6:46 PM  
**To:** Hayslip, Victor; Steakley, Rod ([rsteakley@sirote.com](mailto:rsteakley@sirote.com)); Benjamin R. Little  
**Cc:** Nesmith, Kip; Coulter, Benjamin  
**Subject:** RE: RE: Tax Info

Vic:

Our client has serious concerns about the disclosure of employee identity and other sensitive and/or confidential information. We believe that this is a task that is best left to a neutral party which is committed to keeping that information secure and confidential.

Black Hall is prepared to engage ADP, which performs such services, to prepare all necessary W-2s and 1099s, and to pro-rate any shared cost with AAL.

Please provide us with a list of the employees and other payees about whom AAL is concerned, and we will engage ADP to handle the tax forms.

Thanks,  
Jim

James H. Richardson  
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Huntsville, AL 35804-8667  
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Facsimile: (256) 533-2441  
Toll Free: (877) 809-6974  
Web: [www.richardsonmaples.com](http://www.richardsonmaples.com)

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**From:** Hayslip, Victor [<mailto:vhayslip@burr.com>]  
**Sent:** Thursday, January 5, 2017 4:36 PM  
**To:** James H. Richardson <[jim@richardsonmaples.com](mailto:jim@richardsonmaples.com)>; Steakley, Rod ([rsteakley@sirote.com](mailto:rsteakley@sirote.com)) <[rsteakley@sirote.com](mailto:rsteakley@sirote.com)>  
**Cc:** Nesmith, Kip <[knesmith@burr.com](mailto:knesmith@burr.com)>; Coulter, Benjamin <[bcoulter@burr.com](mailto:bcoulter@burr.com)>  
**Subject:** RE: RE: Tax Info

**Jim and Rod, I have not heard from either of you about the below. Time really is of the essence and this has nothing to do with the litigation between our clients. Please let me know when we can talk today or tomorrow so we can get this**

**moving. I am also ok if you want to designate someone at BHA to deal directly with Saul on transferring the data so appropriate accounting and reporting can be accomplished. Just let me know so I know we are addressing this issue. Thanks, Vic**



Vic Hayslip • *Partner*

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ALABAMA • DELAWARE • FLORIDA • GEORGIA • MISSISSIPPI • TENNESSEE

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**From:** Hayslip, Victor  
**Sent:** Wednesday, January 04, 2017 2:45 PM  
**To:** James H. Richardson; Steakley, Rod ([rsteakley@sirote.com](mailto:rsteakley@sirote.com))  
**Cc:** Nesmith, Kip; Coulter, Benjamin  
**Subject:** RE: Tax Info

**Jim and Rod, AAL USA is required to send out W-2s to employees for 2016 as well as 1099s for contractors for any payments made over \$600. Can you have BHA immediately send Saul the records for all AAL USA employees and contractors receiving payments made in excess of \$600 for 2016? He will also need the username and password for the EFTPS website which is how AAL USA submits federal tax payments. This is urgent as there are penalties for noncompliance on getting this information out.**

**I know we have many things going on, however, let's see if we can get the clients to work together on this as it will impact everyone. All of the current BHA employees who were AAL USA employees will not be able to get their taxes done and make payments/get refunds until this gets done. The information is needed by end of week. Let me know what we can do to assist. Vic**