

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN  
BANKRUPTCY DIVISION**

<hr/>		)
IN RE:	)	Bankr. No. 06-30009 (JKF)
	)	
JEFFREY J. PROSSER,	)	Chapter 7
	)	
Debtor.	)	Related to Doc. No. 4180
<hr/>		)
	)	
STAN SPRINGEL, CHAPTER 11	)	Adv. No. 07-03010 (JKF)
TRUSTEE OF THE BANKRUPTCY	)	
ESTATE OF INNOVATIVE	)	Related to Doc. No. 1066
COMMUNICATION CORPORATION	)	
AND JAMES P. CARROLL, CHAPTER 7	)	
TRUSTEE OF THE BANKRUPTCY	)	
ESTATE OF JEFFREY J. PROSSER,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
JEFFREY J. PROSSER, DAWN	)	
PROSSER, JUSTIN PROSSER,	)	
MICHAEL PROSSER, SYBIL G.	)	
PROSSER, MICHELLE LaBENNETT,	)	
and LYNDON A. PROSSER,	)	
	)	
Defendants.	)	
<hr/>		)

**ORDER COERCING THE PROSSERS' COMPLIANCE WITH THE JANUARY 18, 2013  
CONTEMPT ORDER REQUIRING PAYMENT TO THE TRUSTEE OF FEES AND  
EXPENSES INCURRED IN CONNECTION WITH THE FILING, INVESTIGATION,  
AND LITIGATION OF THE MOTION TO ENFORCE TURNOVER, FOR CONTEMPT,  
AND FOR SANCTIONS**

**AND NOW**, this 31st day of May, 2013, **WHEREAS**, James P. Carroll, Chapter 7 Trustee of the estate of Jeffrey Prosser (the "Trustee") filed the motion to enforce turnover, for contempt and

for sanctions on August 4, 2011 [07-03010, DE 756], seeking enforcement of this Court's Order inter alia Requiring Turnover of Certain Property to the Chapter 7 Trustee [07-01030, DE 728] (the "Turnover Order") and holding the Prossers in civil contempt of court for their knowing violation of the Turnover Order and other orders of this Court requiring them to maintain and protect estate property ("Contempt Motion"); and

**WHEREAS**, this Court found Jeffrey and Dawn Prossers ("the Prossers"), respectively, in contempt and, in an order entered on September 18, 2012, held them jointly and severally liable for damages suffered by the Trustee in connection with the Prossers' dissipation and destruction of the Wines (the "Contempt Order") [07-03010, DE 1006]; and

**WHEREAS**, the Court directed the Trustee to file a report of sale following the sale of the compromised Wines, after which the Court would enter a supplemental order with respect to the specific amount of damages to be awarded to the Trustee; and

**WHEREAS**, in the Contempt Order, the Court further directed the Trustee to file a fee application setting forth the fees, costs, and expenses incurred by his counsel, investigators, and experts in the filing, investigation and litigation of the Contempt Motion; and

**WHEREAS**, on November 6, 2012, the Trustee filed his Application for an Award of Fees and Expenses Incurred in Connection with the Filing, Investigation and Litigation of the Chapter 7 Trustee's Motion to Enforce Turnover Order, For Contempt and For Sanctions (the "Fee Application") [06-30009, DE 3973]; and

**WHEREAS**, the Court entered an order granting the Fee Application with certain reductions of fees, expenses, and costs related to "the criminal investigation and complaint concerning the unplugging of the air conditioner on St. Croix" and "the Prossers' motion to abandon the wines from

the St. Croix property” [06-30009, DE 4040]; and

**WHEREAS**, the Trustee filed his amended fee application (the “Amended Fee Application”), in accordance with the Court’s directive, on January 17, 2013 [DE 4065]; and

**WHEREAS**, on January 18, 2013, the Court entered an order [06-30009 DE 4069; 07-03010 DE 1023] (the “Contempt Fee Order”) directing the Prossers, *inter alia*, to pay the Trustee the amount of **\$528,086.07** (the “Initial Sanctions Award”) representing the fees and expenses sought in the Amended Fee Application, payable within thirty (30) days of the entry of such order; and

**WHEREAS**, the Prossers have not complied with the Contempt Fee Order, and to date, have not made any payments on account of the Initial Sanctions Award; and

**WHEREAS**, on May 13, 2013, the Trustee filed his Motion for an Order Against Jeffrey Prosser and Dawn Prosser Coercing Compliance with the Court’s January 18, 2013 Contempt Order Requiring Payment to the Trustee of Fees and Expenses Incurred In Connection with the Filing, Investigation, and Litigation of the Motion to Enforce Turnover, For Contempt and For Sanctions (the “Motion”) [06-30009, DE 4180; 07-3010, DE 1066]; and

**WHEREAS**, on May 24, 2013, the Prossers filed an objection to the Motion [06-30009, DE 4209; 07-03010, DE 1079], and the Trustee filed a reply in further support of the Motion [06-30009, DE 4210; 07-03010, DE 1080]; and

**WHEREAS**, on May 24, 2013, this Court entered the Supplemental Order Awarding Damages to the Chapter 7 Trustee Pursuant to the September 18, 2012 Contempt Order [07-ap-03010, DE 1078], directing the Prossers, *inter alia*, to pay the Trustee the additional amount of \$419,135.59 (the “Supplemental Sanctions Award”), “reflecting the diminution in value of the

missing and unmarketable wines that are the subject of the Contempt Order,” payable within thirty days of the entry of such order; and

**WHEREAS**, argument on the Motion concerning the Initial Sanctions Award was heard by the Court at the Omnibus Hearing on May 28, 2013, and at a supplemental hearing held on May 30, 2013;<sup>1</sup> and

***NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:***

1. The Motion hereby is **GRANTED**, as further detailed below.
2. The Prossers, jointly and severally, are hereby granted the opportunity to purge their contempt of the Contempt Fee Order (the “Contempt Payment Option”) by paying the Trustee the Initial Sanction Award in accordance with the following terms:

The Prossers shall pay to the Trustee \$528,086.07 in sixty (60) equal monthly installments of \$8,801.44 (the “Monthly Payments”). Each Monthly Payment shall be due and payable on the first calendar day (or, if such calendar day falls on a weekend or Federal holiday, on the first calendar day following such date) of each month (the “Payment Due Date”), commencing on July 1, 2013, and continuing for sixty consecutive months thereafter. Monthly Payments shall be made by wire or certified check payable to “James P. Carroll As Chapter 7 Trustee of the Estate of Jeffrey J. Prosser,” and delivered (or wired) to Trustee Carroll per his payment instructions. Monthly Payments must be *actually received* by the Trustee by no later than the Payment Due Date for each Monthly Payment. Failure to deliver or wire any Monthly Payment shall constitute a payment default by the Prossers (the “Payment Default”). The Trustee shall provide the Prossers notice of any Payment Default by email notice to the Prossers’ respective counsel (the “Notice of Payment”

---

<sup>1</sup>The Motion and argument were related only to the Initial Sanctions Award.

Default”), which notice shall be deemed given upon the transmission of such email by the Trustee or his counsel. The Prossers shall have five (5) calendar days from the transmission of the Notice of a Payment Default to cure any Payment Default. Failure to timely cure any Payment Default by the Prossers, *time being of the essence*, shall constitute an immediate waiver by the Prossers of this Contempt Payment Option (the “Purge Opportunity Waiver”).

3. Within no later than ten (10) days of the occurrence of the Purge Opportunity Waiver, *time being of the essence*, the Prossers shall each, without the need for further order of this Court, and they are hereby ordered and directed, to execute deeds of title (in recordable form to be provided by the Trustee) conveying ownership of Plots 168, 169, 170, and 171 of Estate Shoys, St. Croix Virgin Islands (the “Anna’s Hope Property”) to the Chapter 7 estate. Failure by the Prossers to comply with these terms shall be punishable as a civil contempt of this Court and shall subject the Prossers to arrest and incarceration until such civil contempt is purged.

4. Upon conveyance of the Anna’s Hope Property to the Trustee, the Anna’s Hope Property shall be deemed held by the Trustee solely in his capacity as chapter 7 trustee of the above-captioned Debtor’s estate, and shall be administered by the Trustee as an asset of such estate solely for the purpose of satisfying the amount due on the Initial Sanctions Award and any Supplemental Sanctions Award, if ordered by the Court pursuant to Paragraph 6 below.

5. Following the turnover by the Prossers of the Anna’s Hope Property to the Trustee, the Trustee in the exercise of his reasonable business judgment, may proceed to sell such property pursuant to further order of this Court. In the event Trustee proceeds to sell the Anna’s Hope Property, prior to closing on such sale, the Trustee will obtain an appraisal of market value of the Anna’s Hope Property, and will share such appraisal with the Prossers. If the Prossers disagree with

the Trustee's appraisal, they may obtain their own appraisal of the Anna's Hope property at their own cost. The Trustee and the Prossers shall endeavor to agree as to a stipulated value market value for the Anna's Hope Property (the "Sale Credit"). If the parties are unable to agree as to the Sale Credit, the parties will seek a ruling from this Court as to what value constitutes the Sale Credit. The determination of the Sale Credit is independent of, and shall in no way be used to impede, the Trustee's efforts to sell the Anna's Hope Property.

6. Upon the closing on the Trustee's sale of the Anna's Hope Property, the Sale Credit shall be used by the Trustee as a credit, on a dollar-for-dollar basis, against the balance then due by the Prossers on the Initial Sanctions Award. Within thirty (30) days after the Trustee has determined the amount of the net proceeds of sale, any Sale Credit exceeding the amount due on the Initial Sanctions Award shall be paid to the Prossers by the Trustee from the net sale proceeds of Anna's Hope Property, provided, however, that nothing in this Order shall be deemed to preclude the Trustee from seeking a further order of this Court for authority to offset any remaining Sale Credit against any portion of any Supplemental Sanctions Award then due. If the Trustee intends to seek such further order, a motion shall be filed not later than thirty (30) days after the Trustee has determined the amount of the net proceeds of sale. If such a motion is timely filed, the Trustee shall escrow the portion of the Sale Credit, if any, that does not exceed the amount of any Supplemental Sanctions

Award pending further Order and shall remit any amount in excess of said Supplemental Sanctions

Award to the Prossers.

Dated: May 31, 2013

  
\_\_\_\_\_  
HONORABLE JUDITH K. FITZGERALD mt  
UNITED STATES BANKRUPTCY JUDGE