

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-62185-CIV-SINGHAL/VALLE

IN RE:

APPLICATION OF LM PROPERTY
DEVELOPMENT LIMITED and MIRKO
KOVATS PURSUANT TO 28 U.S.C. § 1782
TO CONDUCT DISCOVERY FOR USE IN
FOREIGN PROCEEDINGS.

ORDER

THIS CAUSE is before the Court on Petitioners' Motion for Additional Contempt Remedies and Discovery Sanctions (DE [38]) against Respondent, Azul Destinations, LLC ("Azul"). On February 12, 2024, the Court found Azul in contempt for failing to obey two orders of the magistrate judge compelling Azul to respond to a subpoena issued by this Court. (DE [37]). As sanctions, the Court imposed a \$100 per day fine that will continue to accrue until Azul purges itself of contempt by complying with the subpoena and the discovery orders.

Notwithstanding the \$100 daily fine, Azul has not produced the subpoenaed documents. On April 17, 2024, Petitioners sought relief from the Court because Azul again failed to comply with the Court's Orders. In their Motion for Additional Contempt Remedies, Petitioners requested that the Court put Azul into receivership, that the daily fine be increased, that they be permitted to take discovery of Azul's assets, and that Petitioners be awarded reasonable costs and attorneys' fees incurred in making the motion.

Upon referral by this Court, the Magistrate Judge issued a Report and Recommendation (DE [41]), recommending that the Motion for Additional Contempt Remedies and Discovery Sanctions be granted in part and denied in part. Specifically,

the Magistrate Judge recommended that (1) Azul continue to be held in civil contempt; (2) the request to put Azul into a receivership and to conduct discovery into Azul's assets be denied; (3) the daily fine for noncompliance be increased to \$500 per day; and (4) Petitioners be awarded \$2,000 in reasonable attorneys' fees and costs incurred in connection with their efforts to compel compliance.

Azul -- which has never entered an appearance in this matter -- did not object to the Magistrate Judge's recommendations. Petitioners did file an objection, but only to the Magistrate Judge's finding that taking discovery in aid of execution is premature. Petitioners argue that, even though a final judgment has not been entered, the Court has broad discretion to fashion equitable remedies such as permitting discovery into Azul's assets.

The Court agrees with the Magistrate Judge that conducting discovery is premature. It also appears to be somewhat of a fool's errand as Azul has continued to ignore the subpoena and multiple court orders and there is no showing that it would comply with another subpoena. That is not to say that the Court's orders are toothless. As set forth below, additional sanctions will be imposed if Azul does not comply by January 31, 2025. Accordingly, it is hereby


ORDERED AND ADJUDGED that the Magistrate Judge's Report and Recommendation (DE [41]) is **APPROVED AND ADOPTED**. Petitioners' Motion for Additional Contempt Remedies and Discovery Sanctions (DE [38]) is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Azul continues to be in contempt. The daily fine for noncompliance with the Court's orders is increased to \$500 per day effective January 13, 2025. Azul can purge this contempt and this fine by producing the subpoenaed documents.

The fine will continue to accrue until such time as Azul complies with the Order or the Court reduces the fine to a judgment.

2. Azul shall pay Petitioners' a total of \$2,000 for reasonable costs and attorneys' fees incurred in the making of this motion. This sanction will not be purged.
3. Azul shall have until January 31, 2025, to comply with the subpoena and the Court's April 27, 2024, Paperless Order (DE [23]) by producing all documents responsive to the subpoena served on January 26, 2023, see (DE [19-1]), and to pay the \$2,000 attorneys' fee award.
4. Petitioners shall file a Notice with the Court on February 3, 2025, stating whether Azul has complied with this Order. Upon a filing of a Notice of Non-Compliance the Court will issue an Order to Show Cause and Notice to Appear to Azul Destinations, LLC, and its managers.
5. Petitioners shall serve a copy of this Order on Azul's Registered Agent, Sherif M. Assal, at 16850 Berkshire Court, Southwest Ranches, FL 33331. Petitioners shall also serve Manager Carlos T. De Navarra, 5520 Maggiore Street, Coral Gables, FL 33146, and Manager Sherine Assal, 3354 Palo Vista Dr., Rancho Palos Verdes, CA 90275, with a copy of this Order.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 3rd day of January 2025.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF