

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jason George and Timothy Gillen, as Trustees of the Operating Engineers Local #49 Health and Welfare Fund and their successor(s); Jason George and Michael McNamara and their successors as Trustees of the Operating Engineers Local #49 Defined Contribution Plan; Joseph Shelton, and his successor(s) as a Fiduciary of the Central Pension Fund of the International Union of Operating Engineers and Participating Employers; and Jason George and Jeffrey Carlson, and their successor(s) as Trustees of the Local #49 I.U.O.E. and Associated General Contractors of Minnesota Apprenticeship and Training Program,

Plaintiffs,

v.

USAFrik, Inc. and
Richard Anthony Mongo,

Defendants.

Case No. 23-CV-00753 (KMM/JFD)

**ORDER TO
COMPEL DISCOVERY**

The above matter came before the Court upon Plaintiffs' Motion to Compel Defendants to appear for and comply with Post-Judgment Discovery including appearing for reasonably noticed Depositions of USAFrik, Inc. and Richard Anthony Mongo. Plaintiffs were awarded default judgment in this case on November 30, 2023, (Order, Nov. 30, 2023) after Defendants failed to engage in litigation. Defendants' refusal to participate

continued through the default judgment hearing, and the Court has received no response from Defendants to Plaintiffs' present motion to Compel Post-Judgment Discovery, even after continuing notification by the Court and service by Plaintiffs.

As such, the Court sees no need for a hearing on Plaintiffs' motion. Pursuant to that Motion, the Court now makes the following Order:

IT IS HEREBY ORDERED:

1. The hearing scheduled for September 26, 2024 on Plaintiffs' Motion to Compel Discovery is **CANCELED**.

2. Plaintiffs' Motion to Compel Discovery is **GRANTED**

3. Defendant USAFrik, Inc., pursuant to Rule 30(b)(6), will produce a representative for a deposition on November 15, 2024, at 10:00 a.m. in person at the offices of Reinhart Boerner Van Deuren s.c. at 80 South 8th Street, Suite 900, Minneapolis, Minnesota to be deposed by oral examination before a court reporter, or some other officer authorized by law to administer oaths. Designated topics of a Rule 30(b)(6) depositions will include:

- a. Business operations of Judgment Debtor between January 1, 2022, and the present;
- b. Assets and liabilities of Judgment Debtor between January 1, 2022, and the present;
- c. The identities of any individual, company, entity or trust which owns an interest in Judgment Debtor, or has owned an interest in Judgment Debtor for the last three (3) years;

- d. Any and all transfer of assets or payment(s) made by Judgment Debtor to any owner, or any individual, company, entity or trust which owns an interest in Judgment Debtor, between January 1, 2023, and the present;
- e. Any and all business transactions Judgment Debtor entered into after it became aware of the liability owed to Judgment Creditor for failure to remit contribution payments;
- f. The income of Judgment Debtor during the last three (3) years, including source, method of payment, identity of payee, and source of the obligation to Judgment Debtor;
- g. All projects to which Judgment Debtor provided services in the last three years;
- h. Accounts receivables owed to Judgment Debtor;
- i. The judgment entered on June 27, 2024;
- j. The allegations set forth in the Complaint regarding Judgment Debtor's delinquency for unpaid fringe benefit contributions;
- k. Any negotiations or plans to sell or transfer the assets of Judgment Debtor to a third-party or signatory contractor;
- l. Payments by Judgment Debtors to creditors in the last year;
- m. Identity of and debt owed to any secured creditors or security interests owed by Judgment Debtor;
- n. Business records which relate to any ownership interest in Judgment Debtor;

- o. Business records maintained by Judgment Debtor identifying assets, liabilities, income, profits and expenses;
- p. Financial records maintained by Judgment Debtor, including bank accounts, insurance records, schedules of assets and depreciation, tax returns, ledgers, and profit and loss statements;
- q. Judgments, liens or any debts owed by Judgment Debtor;
- r. Documents relating to any equipment or trust(s) owned by Judgment Debtor, or any owner of Judgment Debtor, or any assets contained therein;
- s. Information and records relating to any real property owned by Judgment Debtor;
- t. Names and addresses of any persons or entities that have possession of Judgment Debtor's books, financial records, bank accounts, or tax returns;
- u. Names and addresses of individuals who performed bookkeeping services for Judgment Debtor within the last three (3) years;
- v. Names and addresses of any individual or company to whom Judgment Debtor provided financial statements in the past three (3) years;
- w. Cash available to Judgment Debtor or accounts which have cash on hand in Judgment Debtor's name;
- x. Corporate structure of Judgment Debtor;
- y. Employees paid and projects worked on by Judgment Debtor in the past 12 months; and

- z. Information relating to any accounts payable, accounts receivable, or debt owed by Judgment Creditor.
4. Richard Anthony Mongo will appear for a deposition on November 15, 2024, at 11:00 a.m. in person at the offices of Reinhart Boerner Van Deuren s.c. at 80 South 8th Street, Suite 900, Minneapolis, Minnesota to be deposed by oral examination before a court reporter, or some other officer authorized by law to administer oaths.

Date: September 24, 2024

s/ John F. Docherty

JOHN F. DOCHERTY
United States Magistrate Judge