

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOHN WILEY & SONS, INC.,

Plaintiff

-against-

SUPAP KIRTSANG D/B/A BLUECHRISTINE99  
and JOHN DOE NOS. 1-5,  
Defendants

08 CV 7834

Lynch, G, USDJ

\_\_\_\_\_X

DECLARATION OF SAM P. ISRAEL  
IN OPPOSITION TO MOTION FOR CONTEMPT

Sam P. Israel, pursuant to 28 U.S.C. § 1746, declares under penalties of perjury that the following is true and correct:

1. I am a member of this Court in good standing and my firm is counsel to defendant Supap Kirtsang, in this matter. I submit this declaration upon my own personal knowledge and in opposition to the motion (the “**Motion**”) of Plaintiff John Wiley & Sons, Inc., (“**Plaintiff**” or “**Wiley**”) seeking an order of contempt.
2. The Motion places in question the time when I received a copy of the April 27, 2009 order of the Court (the “**Order**”) provisionally barring the Defendant from transferring funds from an account he maintained at the Bank of America (the “**Bank**”) as well as the issue of when I advised the Defendant of the Order.
3. The Plaintiff’s submissions suggest that a copy of the Order was hand delivered to the Bank the day the Order was issued by the Court. The Plaintiff’s papers also note,

however, that I was not personally served with a copy of the Order that day (even though my office is in New York City).

4. Instead, a copy of the order was apparently transmitted to me by email over two hours and twenty minutes after it was issued and at about the time of the close of business.

5. I do not recall the exact moment when I opened the email from the Plaintiff's counsel but I certainly would have sought to speak to the Defendant by telephone as soon as I received it. I am equally certain, however, that I could not immediately reach him.

6. As a rule I keep very detailed contemporaneous diary entries for all of my cases and they include specific references to telephone conferences with my clients. While my diary reflects that I did review the attachment motion on April 27, 2009 (likely that evening) it also reflects that I did not speak to the Defendant until April 28.<sup>1</sup>

7. My diary further reflects that on the morning of April 28, 2009, I traveled to and appeared for a preliminary injunction hearing in the New York Supreme Court in Riverhead and that from Riverhead I flew to Miami Florida for an SEC matter. Though I am sure that I was vigilant in trying to reach him in the midst of my participation in these events, I am not certain of the precise time that I spoke to the Defendant about the Order.

8. I know that I would have been just as expeditious in seeking to deliver the Order to the Defendant by email. Again, however, I cannot identify the precise time when he received it. Among other things that may have impeded the Defendant's immediate receipt of the Order was that I was having trouble with my AOL software at the time.

---

<sup>1</sup> I note that in recent months—and I do not recall exactly when-- the Defendant changed his telephone number resulting in my inability on at least one occasion to reach him for days.

While apparently I had no trouble receiving emails, my transmissions of emails with attachments were delayed. The problem caused me to retain a computer consultant; my calendar reflects that this took place in early May 2009. (The consultant had me switch to Microsoft Outlook chiefly for the transmission of documents with attachments.)

9. All of which is to say that, while I can assure the Court of my diligence, I do not know the precise time that I was able to effectively transmit the Order to the Defendant or talk to him about its meaning.

New York, New York

July 6, 2009

By: s/ \_\_\_\_\_

Sam P. Israel (SPI0270)