

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30607

IN RE: TAXABLE MUNICIPAL BOND
SECURITIES LITIGATION

BANK MIDWEST,

Plaintiff-Appellant,

versus

HAMILTON INVESTMENTS, INC.,

Defendant-Appellee,

versus

GENE LAFITTE AND SUAL BELZ,

Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
(MDL-90-863-G c/w 92-2405-G)

May 07, 1996

Before POLITZ, Chief Judge, JONES, and BARKSDALE, Circuit Judges.

PER CURIAM:*

The appellant, Hamilton Investments, Inc., ("Hamilton") appeals the district court's order holding it in civil contempt for its persistent refusal to comply with multiple orders from the

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

district court requiring immediate payment of lead counsel fees. Specifically, after a hearing in September of 1994, the district court found Hamilton in civil contempt of court and ordered it to tender immediately payment of its share of lead counsel's fees, the costs incurred by lead counsel in order to collect those fees, and an additional amount of \$1,000 per day for every day until the fees were paid. Immediately following the hearing, Hamilton paid all of its outstanding lead counsel fees.

Hamilton challenges the district court's order as erroneous and an abuse of its discretion. The appellees, Gene Lafitte and Saul Belz, have moved this court to dismiss this appeal for lack of jurisdiction. Because this court concludes both that the district court's contempt order is appealable and that the district court did not abuse its discretion when it issued this order, the order of the district court is AFFIRMED.

DISCUSSION

A. Appealability of the Contempt Order

Generally, a finding of civil contempt against a party litigant is not an appealable order, but is reviewable only upon appeal from a final decree in the case. *Drummond Co. v. Dist. 20, United Mine Workers of America*, 598 F.2d 381, 383 (5th Cir. 1979). However, this court has explained that a civil contempt order is final for purposes of an appeal if (1) a finding of contempt was issued, and (2) an appropriate sanction was imposed. *Matter of U.S. Abatement Corp.*, 39 F.3d 563, 567 (5th Cir. 1994); see also *Petroleos Mexicanos v. Crawford Enter., Inc.*, 826 F.2d 392, 399

(5th Cir. 1987) (holding that a district court's finding of civil contempt was final and appealable because "there [was] a finding of contempt and a concomitant sanction.").

In the instant case, the district court made an express finding of contempt and imposed an appropriate, concomitant sanction against Hamilton. Specifically, upon finding that Hamilton was in civil contempt of several orders directing it to pay its share of lead counsel fees, the district court ordered Hamilton to satisfy its outstanding balance or be charged an additional \$1,000 for each additional day of delinquency; this sanction was to be assessed immediately. Because this order satisfies the criteria set forth in both *U.S. Abatement Corp.* and *Petroleos*, it is final and appealable.

B. District Court's Discretion

This court reviews a district court's order of civil contempt for abuse of discretion. *Martin v. Trinity Indus., Inc.*, 959 F.2d 45, 46 (5th Cir. 1992).

The district court's order directing Hamilton to pay its share of lead counsel fees or incur a fine for each additional day of delinquency was not an abuse of its discretion. After all, there is no dispute that the district court's August 1994 order clearly required that all fees billed prior to May 23, 1994 should be paid immediately. Likewise, Hamilton admits that it did not comply with that order and does not suggest any reason that would legally justify this noncompliance. Indeed, only after the

district court found Hamilton in civil contempt did Hamilton finally pay its outstanding balance for lead counsel fees.

CONCLUSION

For the foregoing reasons, the civil contempt order of the district court is **AFFIRMED**.