

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

In Re Charge of Luis A. Aguilera; United States of America, Complainant v. John Sargetis, Ted Sargetis and Jim Sargetis, Individually and d/b/a Castle Valley Sales, Inc., and C.V.S. Auto Sales, Respondents; 8 U.S.C. Section 1324b Proceeding; Case No. 90200143.

ORDER DENYING RESPONDENTS' MOTION TO ENTER ORDER TO COMPEL ANSWERS TO INTERROGATORIES AND GRANTING IN PART AND DENYING IN PART COMPLAINANT'S MOTION TO COMPEL DISCOVERY

On September 28, 1990, Respondents filed a Motion to Enter Order To Compel Answers To Respondents Interrogatories To The Complainant And Motion To Continue The Hearing. These combined Motions are Denied as being moot.

By my Order of September 26, 1990, I had continued the previously scheduled hearing dates of October 23-24, 1990 indefinitely. This was done in anticipation of an additional attorney entering his appearance on behalf of the newly added Respondents, and also in light of the continuing discovery.

After receiving Respondents' motion to compel, my Attorney/Advisor, Kathi Felton, contacted the Office of Special Counsel (OSC) and spoke with Melba Bennett on September 28, 1990. Ms. Bennett indicated that she had sent the requested documents to Complainant, Luis Aguilera, and that these responses would be sent to Respondents as soon as possible. On October 1, 1990 Ms. Bennett contacted my office and indicated that the responses had been sent via express mail to Respondents. Kathi Felton contacted counsel for Respondents, Randall Gaither, on October 4, 1990, and learned that he had received the responses in question and that they appeared to adequately respond to the requested interrogatories.

I received a copy of Complainant's Response to Respondent's First Set of Interrogatories on October 5, 1990. I have reviewed these responses and agree with Mr. Gaither that Complainant has

responded to each of the requested interrogatories. I can fully understand Respondent's frustration in receiving these responses more than two months after they were served upon Complainant. I would admonish Complainant to respond more quickly in the future to avoid an undue delay in these proceedings. However, considering the fact that these responses have now been submitted, I find that Respondent's request is moot and there is no longer any reason for me to enter an order to compel responses to discovery. Accordingly, Respondents' Motion is Denied.

On October 1, 1990, I received a similar Motion to Compel Discovery submitted by Complainant, OSC, requesting that Respondents be ordered to respond more completely to Complainant's First Set of Interrogatories and First Request for Production of Documents, dated July 12, 1990. Respondents originally responded to these requests on July 30, 1990.

Complainant specifically objects to the responses to interrogatories numbered: 2, 3, 11, 12, 26, 27, 28, 29, and 30. On October 9, 1990, Respondents provided a Response to Motion to Compel.

I have reviewed the interrogatories in question, the original responses, as well as the responses provided in the October 9 document. I will set forth below my findings as to each of the relevant interrogatories.

Number 2: Complainant requested information pertaining to the forming of C.V.S. Auto Sales from Castle Valley Sales. Respondents originally indicated that they provided a copy of a letter from the Monson Company which described said transaction. In their October 9 response, Respondents indicated that the letter referred to previously had been inadvertently omitted from its response, and was now being provided to Complainant. This later response more fully describes the business relationship between C.V.S. Auto Sales and Castle Valley Sales. I find that Respondents have sufficiently responded to this Interrogatory, therefore, the Motion is Denied as to it.

Number 3: Complainant requested identification of the assets of both Castle Valley Sales and C.V.S. Auto Sales. Respondents have continued to respond to this request by indicating that the assets of these entities cannot be separated, as they are the same entity. Additionally, Respondents state, in somewhat confusing terms, that since, "[t]here has been no judgment entered in this case and there is relevance to require the corporation to disclosed", they are not required to provide information pertaining to the assets of the business entities. I find that Complainant has sufficiently set forth its reasons for requesting this information and that these reasons are

valid and relevant to this proceeding. Therefore, I order Respondent to provide a more complete response to this interrogatory.

Number 11: Complainant requests identification of each of Respondent's employees from January 1989 to the present, along with their current addresses and telephone numbers. Respondent's original response was, ``See information supplied by accountant''. Complainant objects to this reference because it does not indicate which information the accountant supplied. Respondents indicate in their October 9 response that they intend to submit this information to Complainant. I will therefore Deny Complainant's request pertaining to this Interrogatory, however, if this information is not provided as indicated, I will entertain a subsequent Motion to Compel Discovery.

Number 12: Complainant requests documents supporting Respondents' assertion that a business slow down caused the discharge of Luis Aquilera. Although Respondents' previous response did not satisfy this request, Respondents have agreed to provide income tax documentation for the relevant years. I will again Deny Complainant's request, providing the information to be submitted by Respondents satisfies this Interrogatory. If not, I will entertain a Motion to Compel Discovery.

Number 26: Complainant requested documents relating to Respondents' profit or loss situation for the business years 1988 to the present. Respondent objected to this as being, ``overly broad and relevant to the proceedings''. I agree with Complainant that this response is confusing and also that the requested information is relevant. I Grant Complainant's request as to this Interrogatory.

Number 27: Complainant requested Respondents to state the amount of cash withdrawn from Respondent corporation by each of the members of its Board of Directors for the years 1988 to present. Respondent has consistently stated that the Board of Directors received no cash in addition to their regular salaries. Although Complainant finds this response to be in conflict with a statement made by John Sargetis in his deposition, I find that Respondents have sufficiently responded to this Interrogatory, and that it does not conflict with said Deposition. Therefore, I Deny Complainant's request as to this Interrogatory.

Number 28: Complainant requested of Respondents the amount of profits left in Respondent corporation for reinvestment in the years 1988 to the present. Respondents have indicated that their corporate income tax returns for said years will supply this information. Based upon this response, I Deny Complainant's request, but will reconsider upon a subsequent Motion to Compel if Complainant is not satisfied with the documents to be provided.

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Number 29: Complainant requests a description of the circumstances which led Personal Touch Detail to occupy part of the business premises formerly occupied by Respondent corporation. Respondents directed Complainant to the Deposition of John Sargetis, I agree with Complainant that this response does not sufficiently comply with the request. I, therefore, Grant Complainant's request for a more detailed explanation of the above described circumstances.

Number 30: Complainant requested documents supporting Respondents' response to Interrogatory No. 29. Respondents indicated that this information should have been received by Complainant pursuant to its subpoenas upon third parties. Respondents further stated that they do not have custody of leases to which Personal Touch Detail is a party. Respondents have agreed to provide any copies of relevant lease agreements which they possess. Based upon this response I Deny Complainant's request pertaining to these documents.

Accordingly, Complainant's Motion to Compel is hereby denied in part and granted in part.

**IT IS SO ORDERED:** This 19th day of October, 1990, at San Diego, California.

E. MILTON FROSBURG  
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