

Federal Court



Cour fédérale

**Date: 20160412**

**Docket: T-995-14**

**Citation: 2016 FC 407**

**Ottawa, Ontario, April 12, 2016**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**ARCTIC GLACIER CANADA INC.**

**Plaintiff**

**and**

**RED RIVER EQUIPMENT (2007) INC. o/a  
CANADIAN GOLD BEVERAGES (2012)**

**Defendant**

**ORDER**

**UPON A MOTION** for a finding of contempt on the part of the Defendant, the Defendant had previously been found to have infringed the Plaintiff's trademark and to have directed public attention to products in such a way as to cause confusion between his products and that of the Plaintiff;

**UPON THE MOTION** filed on behalf of the Plaintiff Arctic Glacier Canada Inc. (the "Plaintiff") dated February 25, 2016 for an Order against the Defendant Red River Equipment

(2007) Inc. o/a Canadian Gold Beverages (2012) (the “Defendant”), pursuant to Rules 466 and 467 of the *Federal Courts Rules*;

**AND UPON** the Order of the Honourable Madam Justice Elliott dated March 14, 2016 (the “Elliott Order”), in which Mr. Pieter de Jong (“de Jong”), President of the Defendant, was required to appear before a Judge at the General Sitting of this Court at 9:30 a.m. today to: (a) hear proof of how the Defendant has ignored and/or failed to comply with the Order of the Honourable Madam Justice Strickland dated July 11, 2014 (the “Strickland Order”); and (b) present any defence that he and/or the Defendant had as to the failure of de Jong to comply with the Strickland Order, failing which the Defendant and de Jong would be held in contempt of the Strickland Order;

**AND UPON** de Jong’s first appearance today (after several proceedings where he had not appeared) and then his failure to remain in Court for more than two minutes (having walked out and slammed the Courtroom door) at the General Sitting of this Court at 9:30 a.m. today, despite being personally served with the Strickland Order and the Elliott Order on April 4, 2016;

**AND UPON** hearing the submissions of counsel for the Plaintiff, reading the Plaintiff’s Motion Record, the Affidavit of Jeremy Spencer, sworn February 10, 2016 and the Affidavit of Service of Constable Allan Shane MacGillivray, sworn April 6, 2016;

**THIS COURT ORDERS that:**

1. de Jong is, and is hereby declared, to be in contempt of the Strickland Order and that of the Elliott Order;
2. Recognizing that this is an extraordinary situation of failure to acknowledge and

respect the Orders of Justices Strickland and Elliott; and, the Defendant, having appeared for the first time this morning for two minutes; and, then, having stormed out and slammed the Courtroom door, literally, at the outset of the hearing; and, as this is a flagrant case of contempt of Court, the Defendant, de Jong is ordered to pay a fine of 10,000\$ (ten thousand dollars), in addition to all reasonable fees and disbursements incurred by the Plaintiff at this hearing and previous hearings, and, all costs of this and previous proceedings on a solicitor and client basis, without relief of the obligation to comply fully with this Order. And the Court, thereafter, may issue a bench warrant for the arrest of de Jong; and, order incarceration of de Jong, for continuing flagrant failure to comply with Orders of this Court.

[Continuing flagrant failure to comply with Court Orders warrant imprisonment of de Jong. A Court is to ensure compliance with Court Orders; they are not to be ignored. That is essential for the Court's administration of justice.]

"Michel M.J. Shore"

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Judge