

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Stanley Mosk Courthouse, Department 86

**BS174784**

**KATHERINE MCNENNY ET AL VS LOS ANGELES**

**CHINATOWN BUSINESS CO**

February 6, 2020

8:50 AM

Judge: Honorable Mitchell L. Beckloff

Judicial Assistant: F. Becerra

Courtroom Assistant: None

CSR: None

ERM: None

Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

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**NATURE OF PROCEEDINGS:** Nunc Pro Tunc Order

It appearing to the Court that through inadvertence and/or clerical error, the minute order of 02/05/2020 in the above-entitled action does not properly reflect the Court's order. Said minute order is ordered corrected nunc pro tunc as of 02/05/2020, as follows:

By adding:

"LATER:

After the hearing, counsel did not provide the clerk with a physical description of George Yu. Therefore, as of the date of this minute order, the attachment for defaulter has not been released for service.

After considering the matter further, the attachment for defaulter as to George Yu is recalled (although it was not yet released for service) and quashed. The court finds it has no jurisdiction over George Yu in this matter.

On August 19, 2019, the court issued is Judgment Granting Petition for Writ of Mandate. The Judgment required Respondent, Los Angeles Chinatown Business Council, to produce certain records pursuant to the California Public Records Act within 30 days. The Judgment was not directed at the officers, agents and employees of Respondent.

Nonetheless, “[a]n injunction issued against a corporation is in effect an injunction against the officers, agents, and employees.” (Katenkamp v. Superior Court (1940) 16 Cal.2d 696, 700.)

Here, however, the court has no evidence, George Yu, the registered agent for the corporation, is “in control of the corporate affairs” of Respondent. (Ibid.) Petitioner’s application for the Order

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to Show Cause does not mention George Yu. The Declaration of Anna von Herrmann filed in support of the application labels George Yu as the Executive Director. The foundation for her belief, however, is not entirely clear. While von Herrmann references Respondent's website, the exact nature of information obtained from Respondent's website other than "names, addresses, email addresses, and telephone number" is unclear. (Decl. von Herrmann filed November 12, 2019 ¶ 3.)

More importantly, the court never issued an Order to Show Cause to George Yu. It is the "order to show cause [that] acts as a summons to appear in court on a certain day and, as its name suggests, to show cause why a certain thing should not be done." (Cedars-Sinai Imaging Medical Group v. Superior Court (2000) 83 Cal.App.4th 1281.) George Yu has not been "made a party defendant to the contempt proceeding . . ." (Union Tool Co. v. United States (9th Cir.) 262 F. 431 (1920).)

Accordingly, based on the foregoing, the attachment for defaulter issued, held and ordered released (although never released for service) is recalled and quashed. The court's order issuing the attachment for defaulter is vacated. The status conference date set for 05/20/2020 is vacated.

Finally, the court has some concerns about the language in its order to show cause made on November 15, 2019 and signed on December 12, 2019. The language of the order could be more direct to avoid any claim of confusion. The order indicates the court issued its order to show cause and attaches a minute order reflecting the same, but the order thereafter orders Respondent to "attend a hearing on a Motion for Order to Show Cause Re Contempt." In actuality, the court's order was an order to show cause why Respondent shall not be found in contempt. (The court notes Petitioner's proposed order submitted with its ex parte application (but not signed) provided more clarity.)

Should Petitioner wish to submit a proposed amended order to show cause based on the court's November 15, 2019 order issuing an order to show cause, the court will provide dates for a new hearing on the order to show cause and set the matter for hearing. As the application requested an order to show cause issue against Respondent only, any proposed amended order to show cause based on that application shall be consistent with Petitioner's application.

The court sets no further dates in this matter at this time. The court does not intend to limit the manner in which Petitioner would like to proceed."

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Bench Warrant issued on 02/05/2020 for George Yu is ordered recalled and quashed.

On the Court's own motion, the Status Conference Re: Bench Warrant on Contempt scheduled for 05/20/2020 is advanced to this date and vacated .

Certificate of Mailing is attached.