

1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE that Plaintiff Federal Trade Commission (“FTC”
3 or “the Commission”) respectfully moves this Court for an Order to Show Cause
4 Why Defendants Eunjung Cardiff and Jason Cardiff Should Not Be Held In
5 Contempt of Court and Coercively Incarcerated Until They Comply With the
6 Court’s Orders.

7 In support of this motion, the FTC submits the concurrently filed
8 Memorandum in Support of Its Motion for an Order to Show Cause and supporting
9 evidence and states the following:

10 1. On October 3, 2018, the FTC filed its Complaint for Permanent
11 Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal
12 Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), the Restore Online
13 Shoppers’ Confidence Act (“ROSCA”), 15 U.S.C. §§ 8401-8405, and the
14 Electronic Fund Transfer Act (“EFTA”), 15 U.S.C. §§ 1693-1693r, and Section 6
15 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (the
16 “Telemarketing Act”), 15 U.S.C. § 6105, and moved, pursuant to Fed. R. Civ. P.
17 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an
18 order to show cause why a preliminary injunction should not issue against
19 Defendants Jason Cardiff, Eunjung Cardiff, a/k/a Eunjung Lee, a/k/a Eunjung No,
20 Danielle Cadiz, a/k/a Danielle Walker, Redwood Scientific Technologies, Inc.
21 (California), Redwood Scientific Technologies, Inc. (Nevada), Redwood Scientific
22 Technologies, Inc. (Delaware), Identify, LLC, Advanced Men’s Institute Prolongz
23 LLC, Run Away Products, LLC, and Carols Place Limited Partnership.

24 2. This Court entered a temporary restraining order (“TRO”) on October
25 10, 2018 (Dkt. No. 29)¹. Defendants Eunjung Cardiff and Jason Cardiff (“the
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28 ¹ All citations are to ECF page numbers unless otherwise noted.

1 Cardiffs”) were served with that order on October 12, 2018 (Dkts. 38, 39). On
2 October 24, 2018, the Court extended the TRO as to the Cardiffs (Dkt. No. 48). On
3 November 7, 2018, in open Court and in the presence of the Cardiffs, the Court
4 granted a Preliminary Injunction (“PI”) as to the Cardiffs, which was entered and
5 served on them on November 8, 2018 (Dkt. No. 59).

6 3. On June 17, 2019, the Commission moved for an Order to Show
7 Cause why the Cardiffs and non-party Jacques Poujade (the Cardiffs’ close friend
8 and business associate) should not be held in contempt of the TRO and PI (Dkt.
9 134). The Court issued the Order to Show Cause on June 24, 2019 (Dkt. 140) and
10 held a three-day hearing on July 29-31, 2019. On that last day, the Court found the
11 Cardiffs and non-party Jacques Poujade in contempt of the TRO and PI for
12 working together to hide frozen assets (Dkt. 238).

13 4. On October 29, 2019, the Court issued an Order Overruling Non-Party
14 Jacques Poujade’s Alternative [Proposed] Order and Objection to FTC’s
15 [Proposed] Order Regarding August 27 Hearing (Dkt. 237), and an Order
16 Regarding Turnover of Funds to Receiver, Film Strip Accounting, and Production
17 of Documents (hereafter “Contempt Order”) (Dkt. 238).

18 5. The Contempt Order required the Cardiffs, among other things, to:
19 [P]roduce to the FTC and the Receiver a full and detailed
20 accounting, under oath, of all assets held by, for the benefit of,
21 or otherwise controlled, directly or indirectly, by Eunjung
22 Cardiff or Jason Cardiff (or both) for the period from July 31,
23 2018 to the date of this Order. The detailed accounting shall
24 include each deposit/credit to, and each withdrawal/debit from,
25 all accounts, including the source of each deposit/credit, the
26 recipient or beneficiary of each withdrawal/debit, and the
27 purpose of each debit, and shall include the production of
28 primary source documents (e.g., bank statements, copies of

1 fronts and backs of checks, wires), evidencing all debits and
2 credits from all accounts, and not merely secondary source
3 documents, such as ledgers.

4 Dkt. 238, p. 4-5.

5 6. The Commission has filed this Motion because, as explained in the
6 accompanying Memorandum, Defendants Eunjung Cardiff and Jason Cardiff have
7 violated provisions in the Court’s TRO, PI, and Contempt Order.

8 7. Defendants Eunjung Cardiff and Jason Cardiff have violated Sections
9 VII, XVII, XVIII, and XX of the TRO and PI. They have concealed and dissipated
10 their assets, in violation of Section VII (Asset Freeze), by refusing to identify the
11 true source of funds in a First City Credit Union account (“FCCU Account”) they
12 are using to support their lavish lifestyle, and by allowing their residence in
13 Upland, California (“Upland House”) to waste by not paying the mortgage.² The
14 Cardiffs have failed to deliver the assets funding the FCCU Account to the
15 Receiver, in violation of Section XVII (Transfer of Receivership Property to
16 Receiver). They have failed to provide to the Receiver a list of all assets and
17 accounts of the Receivership entities and the Cardiffs held in other names, in
18 violation of Section XVIII (Provision of Information to Receiver). They have
19 interfered with the Receiver’s efforts to take possession of assets or documents
20 subject to the receivership, and disposed of assets belonging to the Receivership
21 and the Cardiffs, in violation of Section XX (Non-Interference with the Receiver).

22 8. The Cardiffs have also violated the Contempt Order’s accounting
23 provision, which required them to identify the source of all deposits/credits to their
24 accounts.

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27 ² In accordance with Local Rule 5.2-1, the FTC is identifying the real estate asset
28 by city name and state only because the Cardiffs still reside in the property.

1 9. This motion is made following the conference of counsel pursuant to
2 L.R. 7-3, which took place as follows: On February 7, 2020, the FTC advised
3 counsel for the Cardiffs of its concerns about the Cardiffs' refusal to pay the
4 Upland House mortgage at the same time they continued to pay for luxury
5 expenses, and requested a meet-and-confer conference. On February 13, 2020, the
6 FTC again requested a meet-and-confer conference to discuss these concerns. On
7 February 20, 2020, FTC staff met and conferred with counsel for the Cardiffs
8 regarding the Commission's intention to initiate contempt proceedings. The
9 Commission advised counsel that its motion for an Order to Show Cause would
10 contend that the Cardiffs had violated the asset freeze and reporting provisions of
11 the TRO and PI, as well as the accounting provision of the Contempt Order.

12 10. The FTC and Defendants Eunjung Cardiff and Jason Cardiff have not
13 been able to reach a resolution in connection with the requested relief: the required
14 detailed accounting of all assets (including the true source of the funds in the
15 FCCU Account); turnover of all relevant assets to the Receiver; reimbursement to
16 the Receivership Estate for the dissipated value of the Upland House asset; and
17 payment of the mortgage going forward.

18 11. This motion is supported by the accompanying Memorandum and
19 concurrently filed declarations and supporting evidence, and the Orders previously
20 issued by the Court.

21 Accordingly, for good cause shown and the reasons set forth here and more
22 fully in the FTC's Memorandum, the FTC respectfully requests that the Court issue
23 an Order to Show Cause Why Defendants Eunjung Cardiff and Jason Cardiff
24 Should Not Be Held In Contempt Of Court and Coercively Incarcerated Until They
25 Comply With The Court's Orders, and that it set the hearing on the merits for
26 March 30, 2020. The Commission further requests that the Show Cause Order
27 contain express notice that Eunjung Cardiff and Jason Cardiff may be sanctioned
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1 for their failure to comply with the Court's Orders, and that such sanctions may
2 include, but will not necessarily be limited to, coercive incarceration.

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Dated: March 2, 2020

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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

) No. ED 5:18-cv-02104-SJO-PLA
Federal Trade Commission,))
Plaintiff,)) MEMORANDUM IN SUPPORT OF
v.)) MOTION FOR AN ORDER TO SHOW
Jason Cardiff, et al.,)) CAUSE WHY DEFENDANTS EUNJUNG
Defendants.)) CARDIFF AND JASON CARDIFF
)) SHOULD NOT BE HELD IN CONTEMPT
)) OF COURT AND COERCIVELY
)) INCARCERATED UNTIL THEY COMPLY
)) WITH THE COURT'S ORDERS
))
)) Hearing Date: March 30, 2020
)) Time: 10:00 a.m.
)) Place: Courtroom 10C
)) [Hon. S. James Otero]
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1 **I. INTRODUCTION**

2 The Cardiffs continue to disobey the Court’s Orders by spending on leases
3 for a Bentley, Porsche, and Range Rover, as well as eye-popping credit card bills
4 for nonessential expenses such as private elementary school tuition, restaurant
5 meals, spa treatments and manicures, taekwondo lessons, ride sharing
6 (notwithstanding their multiple leased vehicles), and dog grooming. Even after the
7 Court found the Cardiffs (and their loyal friend Jacques Poujade) in contempt for
8 violating the Temporary Restraining Order (“TRO”) and Preliminary Injunction
9 (“PI”), they are spending to the tune of nearly \$17,000 per month on cars and
10 credit cards, all while refusing to pay the mortgage on the 6,380 square-foot
11 mansion in which they reside in Upland, California (“Upland House”). The only
12 change in the Cardiffs’ rapacious spending is the account from which they are
13 paying the bills – this time, a brand new credit union account funded almost
14 exclusively by regular cash deposits ranging from \$3,900 to \$10,400 at a time.
15 Incredibly, they claim that Jason Cardiff’s 90-year old father – who admitted under
16 oath that he has not worked for ten years and that he relies on Jason Cardiff to take
17 care of his rent – is the magical money tree from which they are currently drawing
18 their funds. From June 2019 to February 2020, the Cardiffs spent \$133,490.59
19 from this credit union account in violation of the asset freeze, and they refuse to
20 identify and turn over the true source of those funds.

21 **II. BACKGROUND**

22 On October 10, 2018, this Court entered a TRO against the Cardiffs and the
23 web of alter ego corporations they used to deceptively market dissolvable oral thin
24 film strips (Dkt. 29).¹ The Court extended the TRO on October 24, 2018 (Dkt. 48)

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¹ All citations are to ECF page numbers unless otherwise noted.
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1 and entered a PI on November 8, 2018 (Dkt. 59).² The TRO and PI froze and
2 placed the assets of both the Cardiffs and their companies under receivership. The
3 TRO also ordered the Cardiffs to submit sworn financial disclosure forms to the
4 FTC, repatriate and turn over assets to the Receiver, and prevent the dissipation of
5 their assets.

6 On July 31, 2019, after three days of hearings, the Court found the Cardiffs
7 and non-party Jacques Poujade in contempt of the TRO and PI for working
8 together to hide frozen assets at the same time the Cardiffs were freely benefitting
9 from them. Dkt. 238, p. 2; *see also* Dkt. 134-2, p. 17; Dkt. 145, p. 4. Specifically,
10 the Court found that the Cardiffs “were totally unbelievable, that they lied, that
11 they worked in concert with each other and with others to avoid and violate the
12 conditions of the orders of the Court.” *Id.*

13 After a subsequent continued hearing on the contempt, the Court on October
14 29, 2019 issued an Order Regarding Turnover of Funds to Receiver, Film Strip
15 Accounting, and Production of Documents (hereafter “Contempt Order”)
16 containing purge conditions for the Cardiffs and Jacques Poujade. Dkts. 237, 238.
17 Among other requirements, the Cardiffs were ordered to produce a “full and
18 detailed accounting, under oath, of all assets held by, for the benefit of, or
19 otherwise controlled, directly or indirectly, by Eunjung Cardiff or Jason Cardiff (or
20 both) for the period from July 31, 2018 to the date of [the Contempt] Order
21 [October 29, 2019].” Dkt. 238, p. 4-5. As part of the accounting, the Cardiffs were
22 required to identify “the source of each deposit/credit” to all relevant accounts. The
23 Court warned the Cardiffs that for each day they did not comply with the terms of
24 the Contempt Order, they would be incarcerated. Dkt. 238, p. 7.

25
26 ² The Cardiffs were served with the TRO on October 12, 2018 (Dkts. 38, 39); they
27 and their then-counsel were served with the PI on November 8, 2018 (Dkt. 134-21,
28 p. 1).

1 As discussed below, the Cardiffs violated the TRO and PI and the Court's
2 Contempt Order by (1) failing to identify the true source of funds they are
3 currently spending in furtherance of their luxurious lifestyle; (2) dissipating assets
4 subject to the asset freeze by spending freely on luxurious personal expenses and
5 unapproved living expenses and attorneys' fees; and (3) allowing their Upland
6 House³ asset to waste⁴ by refusing to pay the mortgage.

7 A coercive fine for the Cardiffs makes no sense as it could only come from
8 funds that should be preserved for consumer redress. Further, any sanction short of
9 incarceration will be ineffective, as the Cardiffs continue to violate this Court's
10 Orders *even after* they were found in contempt for violating the TRO and PI.⁵
11 Accordingly, the Court should order the Cardiffs to show cause why they should
12 not be incarcerated until they purge their contempt by: identifying and turning over
13 the source of the cash deposits they are currently spending in violation of the asset
14 freeze; refunding the Receivership Estate for the unpaid mortgage payments on the
15 the Upland House; and paying the mortgage going forward.

16 **III. THE CARDIFFS ARE DEFYING THE COURT'S ORDERS**

17 **A. The Diminishing Receivership Estate**

18 The Cardiffs have not paid the mortgage on the Upland House since
19 November 2018. Dkt. 275-1, p. 40. At the same time the Cardiffs are refusing to
20 pay the mortgage, they continue to live in the Upland House rent-free, and to spend
21

22 ³ In accordance with Local Rule 5.2-1, the FTC is identifying the real estate asset
23 by city name and state only because the Cardiffs still reside in the property.

24 ⁴ On January 31, 2020, the Receiver filed two related motions to authorize the sale
25 of the Upland House to prevent further dissipation of the property. Dkts. 274, 275.

26 ⁵ The Receiver has filed four affidavits of non-compliance to date. Dkts. 206, 144,
27 200-201, and 273. Historically, the Cardiffs also violated this Court's Order to
28 comply with the FTC's CID. *See FTC v. Redwood Sci. Tech., Inc.*, No. 2:17-cv-
07821-SJO-PLA, Dkt. 22 (C.D. Cal. Mar. 20, 2018) (Otero, J.).

1 nearly \$17,000 per month on luxury cars, private elementary school tuition, pet
2 grooming, hotels, restaurants, and other personal expenses. Dkt. 145, p. 4; *infra*,
3 Section III.B.

4 The Cardiffs have allowed more than \$100,000 in mortgage payments for
5 the Upland House to go unpaid since they received notice of the asset freeze. Dkt.
6 275-1, p. 43. The Receiver is so concerned about preserving the value of the
7 Upland House that he has requested permission to sell the property. Dkts. 274, 275.
8 Every month the Cardiffs refuse to pay the mortgage, the balance due on the
9 Upland House mortgage increases by \$11,670.71, not counting additional late fees
10 for nonpayment. Dkt. 275-1, p. 43.

11 **B. The Cardiffs' Lavish Spending and Magical Money Tree**

12 The Cardiffs have already proven that they will go to extraordinary lengths
13 to continue living their luxurious lifestyle in defiance of the asset freeze, which has
14 been in place since October 2018. Shortly after learning of the asset freeze, the
15 Cardiffs started paying their bills through a brand new Alphatech account at US
16 Bank. Dkt. 145, p. 4; Dkt. 150, p. 13-14. The Alphatech account paid for their
17 Bentley, Porsche, and Range Rover leases, as well as credit card bills for
18 restaurants, manicures, pet grooming, and other nonessential items. *Id.* The
19 Alphatech account was closed on May 24, 2019 (Dkt. 134-2, p. 19; Dkt. 134-12, p.
20 22), but the Cardiffs had already arranged a seamless transition to their next piggy
21 bank, a brand new, *cash-funded* credit union account in the name of Jason
22 Cardiff's 90-year old father, Gerald. Sands Decl., p. 3-4, ¶ 15, Table 1. Just one
23 week before the Alphatech account was closed, Gerald Cardiff opened an account
24 at First City Credit Union ("FCCU Account"). Sands Decl., p. 3, ¶ 12 & Att. 1, p.
25 26.

26 The FCCU Account is nominally held by Gerald Cardiff but beneficially
27 owned by Eunjung and Jason Cardiff. FCCU Account records show that Gerald
28 Cardiff does not exercise exclusive control over the account's checkbook, as a

1 quick look through the various check images drawn against the account reveals
2 different handwriting on different checks. Sands Decl., p. 3, ¶ 14 & Atts. 1, 4, 7,
3 11, p. 26, 465, 606. Checks to Land Rover Financial and Porsche Financial
4 Services bear striking similarities to checks drawn from a historical account in
5 Eunjung Cardiff's name. Sands Decl., p. 3, ¶ 14 & Att. 11, p. 634.

6 Further, since its inception, the FCCU Account has only paid for Eunjung
7 and Jason Cardiff's expenses. Sands Decl., p. 5-9, ¶ 16, Table 2 & Atts. 1, 4, 7, p.
8 26, 465, 606; p. 14, ¶ 49, Table 13 & Atts. 1, 3, 4, 7, p. 26, 235, 465, 606; p. 16, ¶
9 50, Table 14 & Atts. 1, 2, 4, 6, 7, p. 26, 58, 465, 496, 606. After the Alphatech
10 account was closed, the FCCU Account immediately took over paying nearly
11 \$17,000 in monthly expenses that had been paid by Alphatech, including the
12 Cardiffs' three luxury vehicle leases (averaging \$4,825 per month) and regular
13 payments to their eleven credit cards (averaging an additional \$12,000 per month).
14 Sands Decl., p. 3, ¶ 13; p. 9, ¶ 17. The Cardiffs' nearly \$17,000-per-month
15 spending does *not* include the mortgage for the Upland House, which they refuse
16 to pay.

17 During the nine month period between May 2019 and January 2020, the
18 Cardiffs spent, among other nonessential expenses:

- 19 • \$38,604.54 on Bentley, Porsche, and Range Rover lease payments;
- 20 • \$9,513.76 on private school tuition for their daughter who is in the
21 second grade;
- 22 • \$7,188.01 on restaurants⁶;
- 23 • \$6,080.67 on phone and cable bills;
- 24 • \$842 on salons and spas;
- 25 • \$430 on pet grooming;

26
27 ⁶ This restaurant spending was on top of \$16,308.47 in grocery store expenditures.
28 Sands Decl., p. 14, ¶ 48 & Att. 16, p. 683.

- 1 • \$1,124.64 on a 5-star hotel in New York City;
- 2 • \$3,681.77 on clothes, cosmetics, and home goods shopping,
- 3 including \$300 for a pair of sandals from Sorrento, Italy;
- 4 • \$1,623.42 on music lessons;
- 5 • \$1,320 on taekwondo classes;
- 6 • \$1,463.54 on taxis and ride sharing (e.g., Uber, Lyft), despite leasing
- 7 three cars;
- 8 • \$623.33 on movie theaters;
- 9 • \$681.34 on Apple iTunes; and
- 10 • \$1,785.21 on Amazon.com.

11 Sands Decl., p. 9-12, ¶ 17-46 & Atts. 2, 3, 6, 13, 14, p. 58, 235, 496, 669, 672.

12 Strikingly, the FCCU Account does *not* pay the rent for Gerald Cardiff's retirement
13 home. Sands Decl., p. 5, ¶ 16, Table 2. The rent is now principally paid by another
14 son of Gerald Cardiff. Sands Decl., p. 24, ¶ 56 & Att. 5, p. 476.

15 The FCCU Account is also paying for expenses that had not been paid by
16 Alphatech, such as new, undisclosed credit cards (Sands Decl., p. 22-24, ¶ 52-55,
17 Table 16 & Atts. 4, 7, p. 465, 606) and attorneys' fees for the Cardiffs' two
18 lawyers (Sands Decl., p. 11, ¶ 35; p. 7, line 27). Despite the Contempt Order's
19 requirement that the Cardiffs disclose each debit/credit from all accounts, the
20 Cardiffs failed to disclose new credit card accounts with Capital One and Discover
21 obtained by Jason Cardiff in the two months preceding the Contempt Order. Sands
22 Decl., p. 22-24, ¶ 52-55, Table 16 & Att. 4, 7, p. 465, 606. (It is unclear from the
23 records currently available to the FTC whether the Cardiffs later obtained two
24 additional credit cards in January 2020 under Eunjung Cardiff's name. *See* Sands
25 Decl., p. 23, ¶ 53.) The Cardiffs' lawyers have also received payments, either
26 directly (via check) or indirectly (via credit cards), from the FCCU Account. Sands
27 Decl., p. 11, ¶ 35; p. 7, line 27; Sanger Decl., p. 2, ¶ 6 & Att. 2, p. 6. These
28 expenses are likely to dramatically increase in the coming weeks, as counsel for

1 the Cardiffs have indicated that they intend to file at least three new motions (to
2 release the Cardiffs' passports; release the Upland House and a life insurance
3 policy from the Receivership Estate; and amend their Answers, including by
4 reasserting affirmative defenses and a jury demand that were already denied), and
5 that they would appeal a denial of their motion to dissolve the PI to the Ninth
6 Circuit. Sanger Decl., p. 2, ¶ 8.

7 At a March 2019 deposition, Gerald Cardiff stated that he only had one bank
8 account, had been retired for ten years, was not currently earning an income, was
9 "very casual with money," and could rely on his son Jason for financial assistance.
10 Sands Decl., p. 24-25, ¶ 57 & Att. 12, p. 637 (GC Depo 42:3-13; 18:7-19:5; 17:22-
11 18:2; 59:20-21; 60:15-24). Gerald Cardiff also testified that Jason Cardiff took care
12 of his rent. *Id.* at 57:4-20. Indeed, bank records from the Cardiffs' pre-TRO
13 accounts, plus Alphatech account records, show that the Cardiffs had been paying
14 Gerald Cardiff's rent. Sands Decl., p. 25, ¶ 58 & Att. 17, p. 689; Dkt. 134-12, p. 2,
15 12, 25. After the Alphatech account closed, one of Gerald Cardiff's other sons took
16 over primary responsibility for paying his rent (with one additional contribution in
17 cash and a few contributions from Gerald Cardiff's actual bank account), at the
18 same time that the FCCU Account bearing Gerald's name showed debits of nearly
19 \$17,000 per month, on average. Sands Decl., p. 24, ¶ 56 & Att. 5, p. 476. This
20 picture makes no sense: Gerald Cardiff continues to need help to pay his rent, but
21 he apparently can fund \$4,825 in monthly luxury car leases and \$12,000 in
22 additional credit card payments for Eunjung and Jason Cardiff?

23 At the same March 2019 deposition, Gerald Cardiff could not identify
24 several bank account and merchant accounts that had recently been opened in his
25 name, and was unsure if the signatures on the account initiating documents were
26 actually his. Sands Decl., p. 24-25, ¶ 57 & Att. 12, p. 637 (GC Depo 26:15-23;
27 32:12-22; 35:10-16; 38:1-11; 40:8-23; 44:8-13; 44:20-22; 45:2-16). He was also
28 unfamiliar with various business entities that listed him as an officer, and did not

1 recognize the names of employees and vendors who had worked with those
2 business entities. Sands Decl., p. 24-25, ¶ 57 & Att. 12, p. 637 (GC Depo 21:8-16;
3 21:25-22:24; 22:25-23:4; 24:3-17; 28:2-12; 31:8-24; 33:14-34:5; 36:25-37:16;
4 50:11-51:4; 70:1-13).

5 FCCU Account records indicate that the account has been entirely funded by
6 large cash deposits (except for an initial check in the amount of \$15). Sands Decl.,
7 p. 3-4, ¶ 15, Table 1. Rather than a lump sum, the cash deposits – in amounts
8 typically ranging from \$6,000 to \$8,000, but as much as \$9,800 twice and \$10,400
9 once – are deposited on a regular basis to cover expenses. *Id.* In August 2019 and
10 again in response to the Contempt Order, the Cardiffs identified Gerald Cardiff as
11 the source who was paying their expenses. Sanger Decl., p. 1-2, ¶ 5 & Att. 1, p. 4-
12 5. Based on the FCCU Account records, the striking similarities between the
13 Alphatech account and the FCCU Account, and Gerald Cardiff’s prior sworn
14 testimony, that claim is simply not credible.

15 **IV. LEGAL ARGUMENT**

16 **A. Legal Standard**

17 This Court has inherent authority to enforce compliance with its lawful
18 orders through the remedy of civil contempt. *See Gifford v. Heckler*, 741 F.2d 263,
19 265-66 (9th Cir. 1984); *see also Shillitani v. United States*, 384 U.S. 364, 370
20 (1966).

21 After the FTC’s showing of contempt, “[t]he burden then shifts to the
22 contemnors to show why they were unable to comply[,]” *FTC v. Affordable Media,*
23 *LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999) (quotation omitted), a showing that
24 requires the Cardiffs to prove they “took every reasonable step” to comply. *Stone*
25 *v. City & Cnty. of San Francisco*, 968 F.2d 850, 856 n.9 (9th Cir. 1992). In
26 determining whether a party is in contempt, the Court may consider the credibility
27 of the alleged contemnors. *Bunnett & Co. v. Dores*, No. A-15-CV-1104-LY-
28 AWA, 2018 U.S. Dist. LEXIS 36478, **11-15, 33-34 (W.D. Tex. Mar. 6, 2018)

1 (court determined that the contemnors' excuses lacked credibility, and that clear
2 and convincing evidence showed that defendant and nonparties were in contempt
3 of a TRO by using a backhand method and tortured payment structure to provide
4 money to a defendant in violation of an asset freeze). The Cardiffs do not possess
5 an ounce of credibility (Dkt. 238, p. 2), and the evidence shows that they simply
6 replaced the Alphatech account with the FCCU Account to continue their
7 uninterrupted life of luxury. At the same time, due to their refusal to pay the
8 mortgage, despite having seemingly unlimited access to funds, the Receivership
9 Estate is losing value instead of maintaining the status quo. That means less money
10 left at the conclusion of this case for consumer redress.

11 **B. The FCCU Account and the Cash Behind It Belong in the**
12 **Receivership Estate**

13 The TRO and PI unambiguously define "assets" as "any legal or equitable
14 interest in, right to, or claim to, any property, wherever located and by whomever
15 held." The TRO and PI injunctive provisions expand on this already broad
16 definition by covering assets that are owned or controlled, directly or indirectly, by
17 Defendants, or any entity owned, managed or controlled by them; assets that are
18 held for their benefit; or assets that are in their actual or constructive possession.
19 *See, e.g.*, TRO and PI Sections VII (Asset Freeze) and Sections VIII (Duties of
20 Asset Holders and Other Third Parties).

21 The FCCU Account and the steady stream of cash funding that account are
22 funds directly or indirectly owned or controlled by the Cardiffs, held for the
23 Cardiffs' benefit, or in their actual or constructive possession, as evidenced by the
24 fact that the money is exclusively funding the Cardiffs' lifestyle. *CFTC v. Emerald*
25 *Worldwide Holdings, Inc.*, No. CV 03-8339 AHM, 2004 U.S. Dist. LEXIS 27511,
26 **18-21 (C.D. Cal. Jul. 29, 2004) (failure to repatriate assets violated asset freeze;
27 nominal ownership was irrelevant where order defined "assets" to include funds
28 controlled by or held for the benefit of Defendants). Gerald Cardiff's nominal

1 ownership of the FCCU Account has not translated into any economic benefit for
2 himself; to the contrary, the only beneficial owners of the account are his son and
3 daughter-in-law.

4 **C. The Cardiffs Are in Contempt of the Court's Orders**

5 Clear and convincing evidence shows that the Cardiffs are in contempt of at
6 least four separate provisions of the Court's TRO and PI relating to assets that
7 should be a part of the Receivership. Dkts. 29, 59. Specifically, that evidence
8 shows that the Cardiffs have violated Sections VII, XVII, XVIII, and XX of the
9 TRO and PI. As described above, the Cardiffs have concealed and dissipated their
10 assets in violation of Section VII (Asset Freeze) by refusing to identify the true
11 source of the FCCU Account funds and allowing the Upland House asset to waste.
12 The Cardiffs have failed to deliver the assets funding the FCCU Account to the
13 Receiver, in violation of Section XVII (Transfer of Receivership Property to
14 Receiver). They have failed to provide to the Receiver a list of all assets and
15 accounts of the Receivership entities and the Cardiffs held in other names, in
16 violation of Section XVIII (Provision of Information to Receiver). They have
17 interfered with the Receiver's efforts to take possession of assets or documents
18 subject to the receivership, and disposed of assets belonging to the Receivership
19 and the Cardiffs, in violation of Section XX (Non-Interference with the Receiver).

20 The Cardiffs have also violated the Contempt Order's accounting provision,
21 which required them to identify the source of all deposits/credits to their accounts.
22 Simply saying that the source is Gerald Cardiff is inadequate, since it is not
23 credible that the cash deposits funding the FCCU Account originated with 90-year
24 old, long-retired⁷ Gerald Cardiff.

25
26
27 ⁷ Gerald Cardiff retired when he was 80. Sands Decl., p. 24-25, ¶ 57 & Att. 12, p.
28 637 (GC Depo 18:16-19:5).

1 Both Eunjung and Jason Cardiff are responsible for these ongoing violations.
2 They have both concealed and dissipated assets, failed to provide a full accounting
3 of their assets, and failed to turn over assets to the Receiver. They have both
4 refused to pay the mortgage on the Upland House. They have both benefited from
5 the funds that were channeled through the FCCU Account to pay personal
6 expenses, in violation of the asset freeze.

7 **D. The Cardiffs' Contempt Warrants Coercive Incarceration Until**
8 **They Identify and Turn Over Assets and Make the Receivership**
9 **Estate Whole**

10 The Court's power to impose civil contempt sanctions in order to coerce
11 compliance with its orders is clear. *Jones v. All Am. Auto Prot., Inc.*, No. 2:15-cv-
12 01656-SJO-AGR, 2016 U.S. Dist. LEXIS 69409, **1-2 (C.D. Cal. May 24, 2016)
13 (Otero, J). In fashioning a coercive sanction, this Court has considered "the
14 character and magnitude of the harm threatened by continued contumacy, and the
15 probable effectiveness of any suggested sanction in bringing about the result
16 desired.'" *Id.* at *4, (*quoting U.S. v. United Mine Workers of Am.*, 330 U.S. 258,
17 304 (1947)).

18 1. Coercive Incarceration for the Cardiffs

19 The Court should immediately incarcerate the Cardiffs. They are already on
20 notice that they could be incarcerated for violating the Court's Orders, yet they
21 continue to violate the asset freeze. They have remained immune to the asset
22 freeze, continuing to live exactly the way they did before their assets were frozen,
23 despite the fact that the Court denied their May 2019 motion to pay for the same
24 luxury and nonessential expenses they continue to incur, and later found them in
25 contempt for violating the asset freeze. Dkts. 145, 237, 238. In addition, any
26 money should be preserved for the ultimate purpose of consumer redress. Further,
27 given the Cardiffs' repeated disregard of this Court's Orders, only the threat of
28 coercive incarceration until such time as they comply fully with the PI and

1 Contempt Order is likely to gain their compliance. *SEC v. Bankers Alliance Corp.*,
2 881 F. Supp. 673, 683-84 (D. D.C. 1995) (failure to comply with contempt order
3 finding violation of repatriation provision in preliminary injunction warranted
4 incarceration of individual defendants).

5 2. Purge Conditions: Identify and Turn Over Assets, Refund the
6 Receivership Estate, and Pay the Mortgage Going Forward

7 The FTC requests that the Court order the Cardiffs to: identify the source of
8 the cash deposits into the FCCU Account; turn over all Cardiff assets to the
9 Receiver, including assets that have to be repatriated from abroad; replenish the
10 Receivership Estate for the unpaid mortgage on the Upland House; and pay the
11 mortgage going forward. *SEC v. Fujinaga*, No. 2:13-CV-1658 JCM, 2016 U.S.
12 Dist. LEXIS 159428, **17-18 (D. Nev. Nov. 15, 2016) (upon receiver's contempt
13 motion, court ordered defendant to return all funds withdrawn from a bank account
14 and to disclose their source; and to provide a detailed accounting under oath of
15 each deposit/credit to, and each withdrawal/debit from, the bank account, including
16 the source of each deposit/credit, the recipient or beneficiary of each
17 withdrawal/debit, and the purpose of each debit).

18 **V. CONCLUSION**

19 For the foregoing reasons, the FTC respectfully requests that the Court order
20 the Cardiffs to appear personally and show cause why they should not be held in
21 contempt and coercively incarcerated until they identify and turn their assets over
22 to the Receiver; refund the Receivership Estate for the unpaid mortgage on the
23 Upland House; and demonstrate that they will pay the mortgage going forward.

24
25 Respectfully submitted,

26
27 Dated: March 2, 2020

s/ Elizabeth Jones Sanger
ELIZABETH JONES SANGER

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19 ATTORNEYS FOR PLAINTIFF

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 **Federal Trade Commission,**
23 Plaintiff,
24 v.
25 **Jason Cardiff, et al.,**
26 Defendants.

27 No. ED 18-CV-02104 SJO (PLAx)

28 **DECLARATION OF FTC**
COUNSEL ELIZABETH SANGER
IN SUPPORT OF PLAINTIFF'S
MOTION FOR ORDER TO SHOW
CAUSE

1 Pursuant to 28 U.S.C. § 1746, I, Elizabeth Jones Sanger, declare as follows:

2 1. I am an attorney employed by the U.S. Federal Trade Commission
3 (FTC or Commission), in Washington, D.C., in the Division of Advertising
4 Practices. I am assigned to the above-captioned case.

5 2. The facts set forth herein are based on my personal knowledge or
6 information made known to me in the course of my official duties, and if called as
7 a witness I could competently testify thereto.

8 3. In accordance with Local Rule 7-3, on February 7, 2020, the FTC
9 advised counsel for the Cardiffs of its concerns about the Cardiffs' refusal to pay
10 the Upland House mortgage at the same time they continued to pay for luxury
11 expenses, and requested a meet-and-confer conference. On February 13, 2020, the
12 FTC reiterated its request for a meet-and-confer conference to discuss these
13 concerns. On February 20, 2020, the parties met and conferred, and the FTC
14 requested the relief it now seeks from the Court: identification of the true source
15 of the funds in the First City Credit Union account in the name of Gerald Cardiff,
16 and turnover of those funds to the Receiver; replenishment of the Receivership
17 Estate for the dissipated Upland House asset; and the maintaining of the Upland
18 House asset going forward by paying the mortgage. The Cardiffs have not agreed
19 to the relief sought.

20 4. Following an August 2019 conversation between the Cardiffs' then-
21 counsel, Michael A. Thurman, and the Receiver's counsel, Michael Fletcher,
22 regarding the Receiver's intent to seek the Court's authorization to market and sell
23 the Upland House, Commission staff spoke by phone with the Cardiffs' counsel
24 about that intended motion and other subjects. During the call, we suggested to Mr.
25 Thurman that the Cardiffs begin paying the mortgage on the Upland House, given
26 their demonstrated access to funds to pay other living expenses.

27 5. Also in August 2019, Commission staff made the Cardiffs' counsel
28 aware of our concerns about the source of the funds being used to pay the Cardiffs'

Sanger Declaration

1 living expenses. Attachment 1 to this Declaration is a true and accurate copy of an
2 August 22, 2019 letter I received from Michael Thurman, who was representing
3 the Cardiffs at the time he wrote the letter. Eunjung Cardiff and Jason Cardiff
4 swore to the contents of the letter under penalty of perjury. The letter stated that
5 the Cardiffs were still making lease payments to Bentley, Porsche, and Range
6 Rover, and that Jason Cardiff's father had made those payments in July (Range
7 Rover and Bentley) and August (Porsche) 2019. The letter further stated that Jason
8 Cardiff's father was paying all of the Cardiffs' bills and credit card charges.

9 6. Attachment 2 to this Declaration is a true and accurate copy of a
10 January 1, 2020 email I received from the Cardiffs' attorney, Stephen Cochell. Mr.
11 Cochell stated that he had been paid once by Eunjung Cardiff using a credit card,
12 that he expected to be paid again shortly by the same means, and that Eunjung
13 Cardiff's father-in-law (that is, Jason Cardiff's father) had paid the credit card bill.
14 Mr. Cochell's email also referenced an anticipated motion regarding the release of
15 "untainted funds."

16 7. To date, Defendants Eunjung Cardiff and Jason Cardiff have failed to
17 fulfill their obligations under this Court's Orders, including identification of the
18 true source of the funds that have been used to pay their expenses (including for
19 multiple leased luxury cars and thousands of dollars of credit card charges), and
20 reimbursement to the Receivership Estate of the amount owing on the mortgage of
21 the Upland House, which they have not paid since late 2018.

22 8. During a December 30, 2019 meet-and-confer regarding the Cardiffs'
23 now-pending motion to dissolve the Preliminary Injunction (Dkt. 265), Stephen
24 Cochell, counsel for the Cardiffs, stated that in the event the Court denies the
25 motion, they will appeal that denial to the Ninth Circuit.

26 9. On February 25, 2020, Stephen Cochell and James White, counsel for
27 the Cardiffs, informed Commission staff of their intention to file at least three
28 motions in the near future, including 1) a motion to release the Cardiffs' passports;

1 2) a motion to amend the Answers of Eunjung Cardiff and Jason Cardiff to reassert
2 already-denied affirmative defenses and possibly assert new affirmative defenses,
3 and to reassert their already-denied jury demand; and 3) a motion to release the
4 Upland House and a Cardiff life insurance policy from the Receivership Estate.

5
6 I declare under penalty of perjury that the statements in this declaration are true
7 and correct.

8
9 Executed in Washington, D.C. on March 2, 2020.

10 /s/ Elizabeth Jones Sanger
11 ELIZABETH JONES SANGER
12 Attorney for Plaintiff
13 FEDERAL TRADE COMMISSION
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Via Email

August 22, 2019

Elizabeth J. Sanger, Esq.
Federal Trade Commission
Bureau of Consumer Protection
Division of Advertising Practices
600 Pennsylvania Ave., N.W.
Mail Drop CC-10528
Washington, D.C. 20580

Re: FTC v. Jason Cardiff, et. al.

Dear Liz:

Following up on my letter dated August 20, 2019, this letter is written on behalf of Jason and Eunjung Cardiff in response to your letter dated August 8, 2019, regarding this matter. The Cardiffs respond to your questions under penalty of perjury as follows:

1. Yes, the Cardiffs are still making lease payments on the vehicles about in your letter. The payments on each vehicle have been made as follows: Bentley, \$2,863.00, on or about July 27, 2019; Porsche, \$1,623.85, on or about August 10, 2019; Range Rover, \$1,275.00, on or about July 20, 2019. These payments have been made by Gerald Cardiff, Jason Cardiff's father.
2. Gerald Cardiff, Jason Cardiff's father, has been paying all of the Cardiffs bills since about May 24, 2019. These payments have been made directly to the Cardiff's creditors.
3. The Cardiffs have used the following credit cards since May 1, 2019: AAdvantage Mastercard, Barclays Arrival Plus Mastercard, Barclays Luxury Mastercard, JetBlue Mastercard and American Express. Copies of the credit card statements since about May 1, 2019 are attached. All payments reflected on the statements to the Cardiffs' credit card companies have been made by Gerald Cardiff, Jason Cardiff's father.

In response to the additional demands in your letter, the Cardiffs state as follows:

1. The Cardiffs do not have any control or access to any Clover Cannastrip, Pharmastrip or Sui Trust Account funds and therefore have no ability to turn over any such funds. Similarly, the Cardiffs do not have any control or access to any funds that were transferred out of any of the Clover Cannastrip, Pharmastrip or Sui Trust accounts after notice of the TRO was provided, and therefore they have no ability to turn over any such funds.
2. The Cardiffs are gathering the documents requested and will try to provide them shortly.
3. The Cardiffs are gathering the documents requested and will try to provide them shortly.

As stated in my email dated August 19, 2019, the Cardiffs are gathering and preparing amended responses to the Interrogatories dated February 8, 2019, and the Document Requests dated February 22, 2019, and will try to provide them shortly.

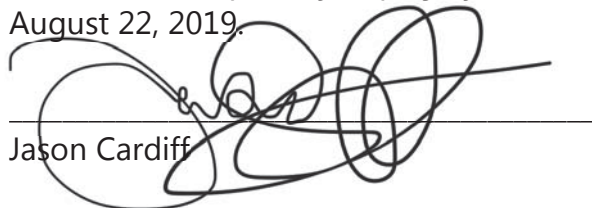
Thank you for your cooperation in this matter.

Very truly yours,



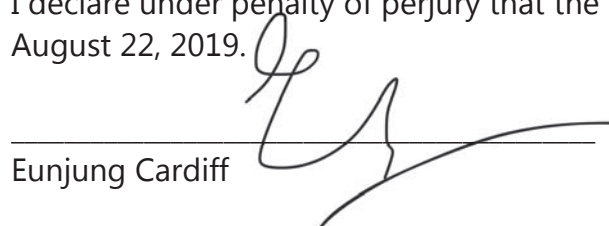
Michael A. Thurman

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 22, 2019.



Jason Cardiff

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 22, 2019.



Eunjung Cardiff

From: [Stephen Cochell](mailto:Stephen.Cochell)
To: mfletcher@frandzel.com; Sanger, Elizabeth; Allan - Grant's Law Firm
Subject: Re: FTC v. Cardiff - Payment in Light of the Preliminary Injunction containing asset freeze
Date: Thursday, January 16, 2020 12:15:24 PM

We are being paid by personal credit card from Eunjung Cardiff and the credit card bill was paid by her father. Effectively, I was paid by Eunjung father-in-law. I was paid \$3500 on or about January 2, 2020. A similar amount is expected in the next day or so. We expect to be paid additional amounts from untainted funds held by the Receiver, an issue that will be addressed by motion in the next several weeks.

I am informed that Mr. Grant is working pro bono.

On Thu, Jan 16, 2020 at 10:12 AM Michael Fletcher <mfletcher@frandzel.com> wrote:
Mr. Grant and Mr. Cochell: We represent the Receiver in this matter. We have asked and obtained information from every other attorney working in this matter for or concerning the Cardiffs as to how they are being paid. There is an asset freeze in place. Please explain how you are being paid, and what you have received to date, and from whom.

Sent from my iPad

> On Jan 15, 2020, at 5:49 PM, Sanger, Elizabeth <esanger@ftc.gov> wrote:
>
> Dear Mr. Grant,
> I just saw your Notice of Appearance come across the docket.
>
> The Cardiffs' personal assets are currently frozen and under Receivership. Please review the attached Preliminary Injunction, which contains provisions related to the Cardiffs individually as well as others. Please let me know if you have any questions.
>
> I am copying the Receiver and the Receiver's attorneys here, as well as the FTC staff who are working on the case. Going forward, please copy all the FTC staff copied here on any communications with the FTC.
>
> Jim White – you didn't mention Mr. Grant joining the case when we spoke by phone today. Can you please clarify for me the role each of you, including the attorneys from Mr. Cochell's firm, are serving in this litigation?
>
> Thank you,
> Liz Sanger
>
> Elizabeth J. Sanger, J.D., M.P.H.
> Federal Trade Commission
> Bureau of Consumer Protection
> Division of Advertising Practices
> 600 Pennsylvania Ave., NW
> Mail Drop CC-10528
> Washington, DC 20580
> direct: (202) 326-2757
> fax: (202) 326-3259
> esanger@ftc.gov<<mailto:esanger@ftc.gov>>
>

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>
> <Dkt. 59 Preliminary Injunction as to Cardiffs.pdf>

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Stephen R. Cochell
The Cochell Law Firm, P.C.
5850 San Felipe, Ste. 500
Houston, Texas 77057
(346)800-3500

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