

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 1 of 11

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Appellant(s)

None Present

Attorneys Present for Appellee(s)

None Present

**Proceedings: IN CHAMBERS—ORDER RE PLAINTIFF’S MOTION TO INCARCERATE JASON CARDIFF AND EUNJUNG CARDIFF [346]**

**“Oh, what a tangled web we weave, when first we practice to deceive!”**

**- Sir Walter Scott, *Marmion: A Tale of Flodden Field***

On June 19, 2020, Plaintiff, the Federal Trade Commission (“FTC”), filed a Motion to Incarcerate Defendants Jason Cardiff and Eunjung Cardiff [Doc. # 346], for failure to comply with the Court’s prior contempt order issued on March 31, 2020 (the “March 31 Purge Contempt Order”) [Doc. # 315]. The motion is fully briefed, including the Cardiffs’ sur-reply. [Doc. ## 344, 355, 410.] The Court held a hearing on July 24, 2020.

For the reasons set forth below, the Court finds the Cardiffs in contempt and provisionally **GRANTS in part** the FTC’s motion.

**I.  
BACKGROUND**

On October 10, 2018, the FTC filed a Complaint for Permanent Injunction and Other Equitable Relief against the Cardiff Defendants, among other Defendants, alleging that the Cardiffs “have for years operated a fraudulent multi-pronged scheme that has bilked consumers out of millions of dollars through baseless advertising claims for products that purport to alleviate serious health conditions, while also enrolling consumers in unwanted autoship programs that have resulted in millions of dollars in unauthorized charges.” Compl. at ¶ 6 [Doc. # 1]. That day, the Court issued a Temporary Restraining Order (“TRO”) freezing the Cardiff Defendants’ assets and appointing a Temporary Receiver. [Doc. # 29.] On November 8, 2018, the Court entered a Preliminary Injunction (“PI”) maintaining the asset freeze and receivership. [Doc. # 59.]

On June 17, 2019, the FTC filed a Motion for an Order to Show Cause (“OSC”) Why the Cardiff Defendants and Third Party Jacques Poujade Should Not Be Held in Contempt of the

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 2 of 11

Court's Preliminary Orders and Sanctioned Until They Comply Fully with Those Orders (“First Motion for OSC”). [Doc. # 134.] The First Motion for OSC alleged that the Cardiffs and Poujade had violated the TRO and PI by concealing and transferring more than \$1.5 million in assets subject to the asset freeze. First Mot. for OSC at ¶¶ 4-5. The Court issued the OSC and ordered the Cardiffs and Poujade to personally appear at a hearing, which took place over three days in July 2019. [Doc. ## 140, 183.] On the first day of the hearing, July 29, 2020, the Court ordered Jason Cardiff coercively incarcerated for one evening for failing to disclose and turn over an Irish passport. [Doc. # 190 at 151-55.<sup>1</sup>]

Finding that the Cardiffs and Poujade were “totally unbelievable” and “lied and perpetuated a fraud on the Court” at the hearing, the Court issued an Order on October 29, 2019 (“October 29 Purge Contempt Order”) finding the Cardiffs and Poujade in contempt of the TRO and PI. October 29 Purge Contempt Order at 2 [Doc. # 238]. The October 29 Purge Contempt Order contains, *inter alia*, the following accounting provision:

Eunjung Cardiff and Jason Cardiff (“the Cardiffs”) shall produce to the FTC and the Receiver a full and detailed accounting, under oath, of all assets held by, for the benefit of, or otherwise controlled, directly or indirectly, by Eunjung Cardiff or Jason Cardiff (or both) for the period from July 31, 2018 to the date of this Order. The detailed accounting shall include each deposit/credit to, and each withdrawal/debit from, all accounts, including the source of each deposit/credit, the recipient or beneficiary of each withdrawal/debit, and the purpose of each debit, and shall include the production of primary source documents (e.g., bank statements, copies of fronts and backs of checks, wires), evidencing all debits and credits from all accounts, and not merely secondary source documents, such as ledgers. The documents shall be produced within thirty days of entry of this Order.

*Id.* at 4-5. The Cardiffs did not comply with the accounting provision.

On March 2, 2020, the FTC filed another motion for an OSC Why Defendants Eunjung Cardiff and Jason Cardiff Should Not Be Held In Contempt of Court and Coercively Incarcerated Until They Comply With the Court’s Orders (“Second Motion for OSC”), arguing that the Cardiffs had violated the TRO and PI by (1) refusing to identify the true source of funds in a First City Credit Union account (“FCCU Account”) they had used to support their lavish lifestyle since June 2019; (2) allowing their residence in Upland, California (“Upland Residence”) to waste by not paying the mortgage; (3) failing to provide the Receiver a list of all assets and accounts of the Receivership entities and the Cardiffs held in other names; and (4) interfering with the Receiver’s efforts to take possession of assets or documents subject to the Receivership and disposing of assets belonging to the Receivership and the Cardiffs. Second Mot. for OSC at 4 [Doc. # 300].

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<sup>1</sup> All page references herein are to page numbers inserted by the CM/ECF system, unless otherwise stated.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 3 of 11

The FTC argued that the Cardiffs also violated the October 29 Purge Contempt Order’s accounting provision, which required them to identify the source of all deposits or credits to their accounts. *Id.*

On March 31, 2020, the Court “easily” found the Cardiffs in contempt of the TRO and PI due to their payment of nearly \$17,000 in monthly expenses for non-essential items such as three luxury cars but failure to pay any part of their \$12,000 monthly mortgage. March 31 Purge Contempt Order at 4 [Doc. # 315]. The Court declined to find the Cardiffs in contempt for not identifying the source of funds to the FCCU Account because the Cardiffs had told the FTC that Jason’s father, Gerald Cardiff, was depositing cash into the account to help his son, and the FTC could pursue further fact discovery on that explanation.<sup>2</sup> *Id.* (“The Court’s contempt power should be used sparingly, and not here, where the FTC can pursue discovery to determine facts.”). Still, the Court included certain conditions as to the FCCU Account to purge their contempt relating to their lavish spending. The Court ordered the Cardiffs to, within 30 days following entry of the Order:

- (1) Identify the source of each and every cash deposit into the FCCU Account;
- (2) To the extent Gerald Cardiff is the source for any cash deposit into the FCCU Account, identify each and every source from which he deposited funds into the FCCU Account;
- (3) Turn over all assets to the Receiver; and
- (4) Replenish the Receivership Estate for any and all unpaid mortgage payments on the Upland Residence, until the date of the sale of the Residence as authorized by the Court [see Doc. ## 306, 309].

*See id.* at 5. The Court warned the Cardiffs that failure to purge their contempt could result in incarceration, although it noted that the rapid spread of COVID-19 weighed against incarceration at that time. *Id.* n.1.<sup>3</sup>

On April 30, 2020, the Receiver filed an affidavit regarding non-compliance with the TRO and PI describing Eunjung’s dissipation of Receivership Estate assets by possessing \$4,500 in cash and depositing it in the FCCU Account of her father-in-law, Gerald. Receiver’s Fifth Affidavit at 2 [Doc. # 331]. In early May, the FTC met-and-conferred with the Cardiffs’ counsel regarding their failure to comply with the March 31 Purge Contempt Order. Sanger Decl. at ¶¶ 3-6 [Doc. #

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<sup>2</sup> The FTC did not pursue additional discovery before the June 1, 2020 discovery cut-off. *See* FTC Reply to *Ex Parte* App. at 8 [Doc. # 341].

<sup>3</sup> The Cardiffs filed appeals to the Ninth Circuit of the Court’s March 31 Purge Contempt Order and March 16 Order authorizing the sale of the Upland Residence, as well as its March 10 Order denying Defendants’ Motion to Dissolve the PI. [Doc. # 317.] The Ninth Circuit determined it lacked jurisdiction over each appeal and terminated the appeals on June 26, 2020. [Doc. # 362.]

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 4 of 11

346-2]. On June 1, 2020, the Cardiffs’ counsel sent the FTC a declaration by Jason in which he stated that the source of the FCCU Account cash was “primarily accumulated years ago when [his father Gerald] was active as a dentist and that the cash funds deposited into that FCCU Account was [sic] from cash reserves he had in his possession and accumulated over the years.” Sanger Decl. at ¶ 4 & Att. 1 (Cardiff Decl.) at ¶ 3 [Doc. # 346-2]. The declaration also states that Jason “respectfully submit[s] that the Preliminary Injunction does not require that [he] pay the receivership estate for the unpaid mortgage.” *Id.*

The FTC filed the instant Motion To Incarcerate Jason Cardiff And Eunjung Cardiff To Compel Their Compliance With The March 31, 2020 Contempt Order on June 19, 2020. [Doc. # 346.] As of the date of this Order, it does not appear that the Cardiffs have provided any more information about the sources of the FCCU Account’s funds, willingly turned over any additional assets, or paid any part of their past-due mortgage for the Upland Residence.

## II. LEGAL STANDARD

“A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as . . . [d]isobedience or resistance to its lawful writ, process, order, rule, decree, or command.” 18 U.S.C. § 401. A party seeking a contempt order must establish: (1) that the defendant violated the court order, (2) beyond substantial compliance, (3) not based on a good faith and reasonable interpretation of the order, (4) by clear and convincing evidence. *Labor/Community Strategy Ctr. v. Los Angeles Cty. Metropolitan Transp. Authority*, 564 F.3d 1115, 1123 (9th Cir. 2009).

If the movant makes such a showing, the burden shifts to the nonmovant to “demonstrate why they were unable to comply” with the Court’s order, *i.e.*, that they took “all reasonable steps within their power to insure compliance.” *F.T.C. v. Enforma Nat. Prods., Inc.*, 362 F.3d 1204, 1211 (9th Cir. 2004); *Stone v. City & County of San Francisco*, 968 F.2d 850, 856 (9th Cir. 1992). A party’s contempt—“a party’s disobedience to a specific and definite court order”—“‘need not be willful,’ and there is no good faith exception to the requirement of obedience to a court order.” *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir. 1993) (quoting *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir. 1987)); *see also Stone*, 968 F.2d at 856 (“Intent is irrelevant to a finding of civil contempt and, therefore, good faith is not a defense.”).

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 5 of 11

**III.  
DISCUSSION**

**A. Failure to Provide Accounting of FCCU Account Funds and Turn Them Over to the Receiver**

On September 20, 2019, in response to a subpoena issued by the FTC, FCCU produced documents relating to Gerald Cardiff. Sands Decl. at ¶ 2 [Doc. # 300-3]. The documents showed that Gerald opened the FCCU Account in May 17, 2019, seven days prior to the closing of the Alphatech US Bank Account, from which Jason and Eunjung’s personal expenses were paid through May 24, 2019, the date that account was closed. *Id.* at ¶ 12.

Since the FTC raised the FCCU Account in its Second Motion for OSC in March 2020, the Cardiffs have repeatedly asserted that the FCCU Account is funded by a decades-old cash reserve that Gerald accumulated through his work as a dentist. The Cardiffs offer declarations by Jason, Gerald, Eunjung, and Gerald’s former employer, Alfred Medina, to verify their story. According to Gerald, he was a dentist and had his own dental practice for 45 years, then sold the practice to become a realtor and work with a different dental group as a dentist. G. Cardiff Supp. Decl. at ¶ 2 [Doc. # 390-1]. He was paid primarily in cash, which he saved for emergencies. *Id.* at ¶¶ 3, 9; Medina Decl. at ¶ 2 [Doc. # 390-4] (explaining that Gerald worked for him as an independent contractor dentist from 1998 until about 2013 and was paid about \$500 a day in cash).

Both Gerald and Jason explain that Gerald’s preference for keeping cash arises from effects of the Great Depression and the Savings and Loans crisis, and that neither father nor son thought Gerald’s finances were his children’s business. *Id.* at ¶ 10; J. Cardiff Supp. Decl. at ¶¶ 3, 6-7 [Doc. # 390-2]. Some time after Jason’s assets were frozen in this action, Gerald offered to pay Jason’s expenses with his emergency cash, opened the FCCU Account, and deposited cash there periodically, on one occasion with Eunjung’s assistance. G. Cardiff Supp. Decl. at ¶¶ 6-7; E. Cardiff Decl. at ¶ 6 [Doc. # 390-3] (describing helping Gerald deposit cash in the FCCU Account once because he was unable to leave his retirement home due to COVID-19). Given Jason’s inability to continue paying his father’s expenses, another one of Gerald’s sons is purportedly paying Gerald’s expenses, including the monthly charges for his residence in a retirement community. G. Cardiff Decl. at ¶¶ 9, 11. As of June 30, 2020, the date of his supplemental declaration, Gerald has “very little cash and cannot continue to give Jason money.” *Id.* at ¶ 8.

The FTC argues that this explanation defies reason and shows no attempt to comply with the Court’s Orders to disclose the true source of the FCCU Account funds. The FTC has provided evidence from Gerald’s March 30, 2019 deposition, in which he testified that he has only one bank account; would spend any money that was given to him, including potentially \$450,000 over the past ten years from Jason; is “very casual about money” and “[doesn’t] keep track of it . . . just spend[s] it”; uses his only bank account to pay for his expenses; and told Jason in the past that he

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 6 of 11

was running out of money. Sanger Decl., Att. 2 (Gerald Cardiff Depo.) at 42:3-13, 56:8-10, 59:14-21, 60:3-14, 60:15-17<sup>4</sup> [Doc. # 346-2]. He testified that he may have put proceeds from the sale of the house he previously lived in into his living trust, but that any proceeds were “gone with the rest of the stuff.” *Id.* at 67:1-9; *see also* Sanger Decl., p. 2, ¶ 7 and Att. 3 at 82 (indicating only “Ten Dollars cash” remaining in his living trust as of April 20, 2016). Furthermore, though Gerald and Jason both attest that one of Gerald’s other sons is now paying for his living expenses, including his monthly charges at his retirement facility, Gerald has received a letter of eviction from the retirement facility indicating that Gerald has not paid his April and May 2020 charges, for a total of \$11,431.50. Sands Decl., Att. 8-10 [Doc. # 405-1]. The FTC argues that it is “outlandish” to believe that a 90-year-old retiree who reportedly did not keep track of his money would have at least \$153,022.45—the amount withdrawn in total from the FCCU Account as of July 8, 2020—in cash to spend on his son’s luxury car leases and other living expenses, yet put himself in the position to be evicted. *See* Reply at 17; Sands Decl. at ¶ 21 [Doc. # 405-1]. In addition, the FTC submitted evidence derived from FCCU security videos showing that Eunjung visited FCCU three times in April and May 2020, and Gerald only once, and there were deposits in the FCCU Account each of those days. Sands Decl., Att. 10 [Doc. # 405-2].

Despite moving *ex parte* for the opportunity to file a sur-reply, the Cardiffs’ sur-reply fails to address the FTC’s evidence that Gerald was in arrears and had received an eviction notice from his retirement living facility.<sup>5</sup> Nor do the Cardiffs address the fact that Gerald’s living trust identified only \$10 in cash in 2016, or Gerald’s own statements that he was casual with money and appeared to spend any money as soon as it came in. The sur-reply instead attempts to bolster Gerald’s credibility on the ground that he is merely “eccentric” for keeping cash and points out that the FTC has not undercut Medina’s testimony that he paid Gerald in cash from 1998 until 2013. Sur-Reply at 5 [Doc. # 410].

As an initial matter, even if the Court were to accept the Cardiffs’ far-fetched explanation for the FCCU Account funds, they still are in contempt for having failed to disclose the funds in the FCCU Account in the first place. The FCCU Account funds constitute assets “held by, *for the benefit of*, or otherwise controlled, directly or *indirectly*, by any Defendant” and thus should have been frozen. October 29 Purge Contempt Order at 4-5 [Doc. # 238] (emphasis added); *see also* PI at 14 [Doc. # 59]. That Gerald purportedly gifted the money to the Cardiffs through an account in his name simply means that the Cardiffs indirectly owned and controlled those assets when they designated which of their bills should be paid with those funds. The proper procedure for paying the Cardiffs’ living expenses through frozen assets, as the Cardiffs and their current counsel are well aware, is filing a motion to release funds, like the one filed on May 7, 2019 [Doc. # 112], not simply paying first and explaining later when the scheme is exposed. Given the circumstances

<sup>4</sup> Citations are to deposition page and line numbers, not to the page numbers inserted by CM/ECF.

<sup>5</sup> At the hearing, the Cardiffs’ counsel appeared unaware of the recent eviction notice.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 7 of 11

under which the FTC discovered the FCCU Account and the Cardiffs' failure to turn over those funds, the Cardiffs have not undertaken "all reasonable steps within their power to insure compliance" with the PI. *Enforma Nat. Prods., Inc.*, 362 F.3d at 1211.

Furthermore, the FTC has met its burden to show, by clear and convincing evidence, that the Cardiffs' story is not credible and fails to comply with the Court's Orders to identify—truthfully—the sources of the FCCU Account funds and any other assets, controlled directly or indirectly. The Supreme Court has described clear and convincing evidence as placing "in the ultimate factfinder an abiding conviction that the truth of [the movant's] factual contentions are 'highly probable.'" *Colorado v. New Mexico*, 467 U.S. 310, 316 (1984); see *F.T.C. v. Cleverlink Trading Ltd.*, No. CV 05-2889, 2006 WL 3106448, at \*16 (N.D. Ill. Oct. 26, 2006) (applying *Colorado*'s formulation of the burden of persuasion in the FTC civil contempt context). The Court concludes that Gerald's self-characterization as a spendthrift, the \$10 in his living trust, the many years in which Jason financially supported him, and his inability to keep current on his own rent at the senior living facility undercut the credibility of Gerald's declaration that he hoarded emergency cash that he was willing to spend on his son's extravagant credit card bills and luxury car lease payments. While it may be true that Gerald was paid a considerable amount in cash for his independent dental work seven years ago, there is no evidence besides self-serving declarations that Gerald was able to and did save at least \$150,000 in cash six or seven years after those cash payments ceased. A contemnor cannot satisfy his burden of production "by evidence or by his own denials which the court finds incredible in context," and "[t]he credibility of his denial is to be weighed in the light of his present circumstances." *Maggio v. Zeitz*, 333 U.S. 56, 75–76 (1948). Under the circumstances of this case and Jason and Eunjung's prior lack of candor in identifying and turning over assets, the Court finds that the Cardiffs' story of Gerald's purported largesse strains credulity and therefore rejects it.

Accordingly, the FTC has shown by clear and convincing evidence that the Cardiffs have failed to comply with the Court's TRO and PI, October 29 Purge Contempt Order's accounting provision, and March 31 Purge Contempt Order's requirement that the Cardiffs describe in detail the source of the FCCU Account funds in order to purge their contempt. Because the Cardiffs have not purged their contempt according to the March 31 Purge Contempt Order's accounting and turnover provisions, the sanctions outlined in that Order will be imposed.

**B. Failure to Replenish the Receivership Estate for the Unpaid Mortgage on the Upland Residence**

The March 31 Purge Contempt Order clearly states that the Cardiffs must replenish the Receivership Estate by paying their unpaid mortgage payments now totaling over \$200,000. It is unreasonable for the Cardiffs to believe still that they are not liable to pay their mortgage at all, despite apparent streams of income to fund \$150,000 of living expenses since June 2019. See J. Cardiff Supp. Decl. at ¶ 5 (maintaining, even as of July 10, 2020, that Jason believes the PI does

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 8 of 11

not require that he pay the unpaid mortgage); *United States v. Ayres*, 166 F.3d 991, 996 (9th Cir. 1999) (The defendant “effectively conceded the contempt motion by explaining why he *chose* not to comply, rather than asserting that he *could not* comply.”).

Perhaps cognizant of his error, Jason does not and cannot deny that the Cardiffs have not paid their mortgage since November 2018. [See Doc. # 300-1 at 6; 275-1 at 40.] Instead, he claims that he meant to pay his past due mortgage payments with money he earned through his work for Virus Protection Labs, Inc. (“VPL”), the company he started with Bobby Bedi that was put under receivership on June 24, 2020. He refers to \$360,000 that VPL paid to his consulting firm, Biztank Group LLC (“Biztank”), and argues that since the Receiver has seized Biztank’s bank account, the Receiver can now pay the past due mortgage with those funds. J. Cardiff Supp. Decl. at ¶¶ 9, 12 [Doc. # 390-2]; Opp. at 9.<sup>6</sup>

Although the Cardiffs’ claimed subjective intent to pay the past-due mortgage does not relieve them of liability for civil contempt, the FTC has shown by clear and convincing evidence that the Cardiffs did not in fact intend to use the money in the Biztank account to pay any past-due mortgage payments. See *Toyo Tire & Rubber Co. v. Hong Kong Tri-Ace Tire Co.*, 281 F. Supp. 3d 967, 984 n.12 (C.D. Cal. 2017) (“Since the purpose [of contempt] is remedial, it matters not with what intent the defendant did the prohibited act.”) (quoting *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949)). As with the FCCU Account, it was the FTC that ferreted out the Biztank bank account—the Cardiffs did not disclose it. Furthermore, the FTC points to the Cardiffs’ application for a New York City apartment with a monthly rent of \$20,000, nearly double their monthly unpaid mortgage, and were prepared to pay for an entire year of rent up front. Reply at 8 [Doc. # 405]; Sands Decl., Att. 46 [Doc. #381-2]. The Cardiffs vaguely explain that they believed they could pay for this apartment through profits from VPL, which are now far less likely to be forthcoming given the cancellation of VPL’s contract by the Department of Health and Human Services. Sur-reply at 7 [Doc. # 410]. But further complicating this matter, Jason appears to have egregiously falsified bank statements in support of his application for that apartment. Receiver’s Supp. Report at 4-5, 9-21 [Doc. # 380]. The Cardiffs’ sur-reply fails to provide specific clarifying detail about the Cardiffs’ ability to pay for the New York apartment and from what source of funds. At the time, the only cash Jason had on hand, of which the Court is aware, is the \$360,000 in the Biztank account. Moreover, Jason continues to argue that the PI does not require him to replenish the Receivership Estate, even though the PI explicitly prohibits the Cardiffs from

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<sup>6</sup> The Court notes, however, that the Receiver’s accounting of VPL’s cash receipts and disbursements from its Chase bank account indicates that \$410,000 was distributed to Biztank and \$10,000 directly to Jason. Receiver’s Report at 35 [Doc. # 365]. It is not clear why there is only \$360,000 remaining in the Biztank account and whether the \$10,000 paid directly to Jason was saved or spent. In addition, at the hearing, the FTC and Receiver stated that Jason withdrew \$30,000 in cash from the Biztank account, potentially after receiving notice of the VPL asset freeze, and also paid his attorneys \$30,000 from that account. The Court has made clear that *all* assets must be accounted for under the terms of the PI. At this time, however, the Court does not require disgorgement of already-paid attorneys’ fees because that was not the subject of the pending motion and was not briefed.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 9 of 11

“dissipating” or “otherwise disposing” of any Assets, including the Upland Residence. PI at 14 [Doc. # 59]. It is therefore both unbelievable and irrelevant that Jason intended for the Biztank money to be used to pay the past due mortgage.

The Cardiffs also argue that since the Biztank funds have been seized, they are now unable to pay \$200,000 for the past due mortgage. “Where compliance is impossible, neither the moving party nor the court has any reason to proceed with the civil contempt action. It is settled, however, that in raising this defense, the defendant has a burden of production.” *United States v. Rylander*, 460 U.S. 752, 757 (1983). For the same reasons stated above, the Cardiffs have not satisfied their burden of production with their tall tale that Gerald’s hoarded cash paid for \$150,000 of living expenses, yet was insufficient to pay their mortgage, and is about to run out. The FTC points to expensive bills for which the Cardiffs have indicated an ability to pay, while choosing not to pay their mortgage. While the Cardiffs supposedly have renegotiated two of their three luxury car leases to pay for slightly less expensive models, saving \$2,120 a month, they still spend at least \$3,782 a month on the leases for a Mercedes Benz, Range Rover, and Porsche. J. Cardiff Sur-reply Supp Decl. at ¶¶ 6-12 [Doc. # 410-1].

Because the Biztank money constitutes separate Assets that are to be frozen and put under Receivership, the Cardiffs still have an obligation under the Court’s Orders to pay their past due mortgage and have not demonstrated inability to pay. The Court is cognizant that procuring \$200,000, even if the Cardiffs have significant undisclosed assets or sources of income, is no easy task. Accordingly, the FTC has proven by clear and convincing evidence that the Cardiffs have failed to comply with the Court’s prior Orders and have not purged their contempt by paying their past due mortgage pursuant to the March 31 Purge Contempt Order. The Court therefore finds the Cardiffs in contempt of the Court’s Orders.

### **C. Coercive Incarceration**

The FTC argues that only coercive incarceration will result in compliance. No monetary sanctions have been imposed, in recognition of the need to reserve value for potential consumer recovery. Coercive incarceration is an appropriate sanction for civil contempt so long as “the contemnor can avoid the sentence imposed on him, or purge himself of it, by complying with the terms of the original order.” *Hicks on Behalf of Feiock v. Feiock*, 485 U.S. 624, 635 (1988).

Given the fact that this Court is now requested to hold both Jason and Eunjung in contempt of *prior contempt orders* and their evasive behavior thus far, the Court finds incarceration a necessary method by which to coerce compliance with Court’s TRO, PI, October 29 Purge Contempt Order, and March 31 Purge Contempt Order. The Court does not find, however, that the simultaneous incarceration of *both* Jason and Eunjung is necessary at this challenging time, in the midst of the pandemic. If Jason’s coercive incarceration does not result in compliance, the

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

Title ***Federal Trade Commission v Jason Cardiff, et al.***

Page 10 of  
11

Court will consider a further request to apply the same sanction to Eunjung, giving her an opportunity to arrange for her child's care if that happens.

The Court will order coercive incarceration of only Jason Cardiff unless the Cardiffs purge themselves of their contempt by (1) producing a detailed accounting of all their assets held by, for the benefit of, or otherwise controlled, directly or indirectly, by the Cardiffs, including the true source of any funds paying their expenses through the date they purge themselves of their contempt; (2) turning over all their assets to the Receiver to be managed during the pendency of this litigation according to the terms of the PI; and (3) replenish the Receivership Estate for any and all unpaid mortgage payments on the Upland Residence due until the date of the sale of the Residence as authorized by this Court's prior orders. *See* PI at 14-15, 23; October 29 Purge Contempt Order at 2; March 31 Purge Contempt Order at 5.

**IV.  
CONCLUSION**

For the foregoing reasons, the Court finds, by clear and convincing evidence, that:

1. The PI, October 29 Purge Contempt Order, and March 31 Purge Contempt Order ("Prior Orders") are specific and definite orders of this Court;
2. Jason Cardiff has failed to comply with the accounting, turnover, and reimbursement provisions of the March 31 Purge Contempt Order;
3. Eunjung Cardiff has failed to comply with the accounting, turnover, and reimbursement provisions of the March 31 Purge Contempt Order; and
4. Because Jason Cardiff and Eunjung Cardiff have not purged their contempt, the sanctions outlined in the March 31 Purge Contempt Order will be imposed as set forth below.

Plaintiff's motion to incarcerate is provisionally **GRANTED in part**. The Court will give the Cardiffs a final opportunity to comply with the Court's Prior Orders by **noon on August 31, 2020** by (1) producing a detailed *truthful* accounting of all their assets held by, for the benefit of, or otherwise controlled, directly or indirectly, by the Cardiffs, including the true source of any funds paying their expenses through the date they purge themselves of their contempt<sup>7</sup>; (2) turning over *all* their assets to the Receiver to be managed during the pendency of this litigation according to the terms of the PI; and (3) replenishing the Receivership Estate for any and all unpaid mortgage

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<sup>7</sup> "The detailed accounting shall include each deposit/credit to, and each withdrawal/debit from, all accounts, including the source of each deposit/credit, the recipient or beneficiary of each withdrawal/debit, and the purpose of each debit, and shall include the production of primary source documents (e.g., bank statements, copies of fronts and backs of checks, wires), evidencing all debits and credits from all accounts, and not merely secondary source documents, such as ledgers." October 29 Purge Contempt Order at 2.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES—GENERAL

Case No. **ED CV 18-2104-DMG (PLAx)**

Date July 24, 2020

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Title *Federal Trade Commission v Jason Cardiff, et al.*

Page 11 of  
11

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payments on the Upland Residence due until the date of the sale of the Residence as authorized by the Court's Orders [Doc. ## 306, 309]. If they have not done so by the designated date, the Court will issue a writ of bodily detention and warrant for civil arrest under its contempt power directing the U.S. Marshal Service to arrest and incarcerate Jason Cardiff until his contempt is purged or the Court finds that continued incarceration no longer serves a coercive purpose.

This Order is without prejudice to a renewed motion to incarcerate Eunjung Cardiff in the event this Order or the coercive incarceration of Jason Cardiff does not result in a purge of the Cardiffs' contempt.

**IT IS SO ORDERED.**