

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

Case No. **ED CV 18-2104-DMG (PLAx)** Date April 2, 2021

Title ***Federal Trade Commission v Jason Cardiff, et al.*** Page 1 of 2

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 SETTING DATES FOR JOINT STATUS REPORT AND STATUS CONFERENCE

On February 11, 2021, the Court ordered Plaintiff the Federal Trade Commission (“FTC”), Defendants Jason and Eunjung Cardiff, Intervenor VPL Medical, Inc. (“VPL”), and the Receiver to file a Joint Status Report with a brief summation of the status of any sales contracts, the number of masks manufactured, VPL’s current and projected production capacity, what costs have been incurred up to that point since the last report, and the balance remaining in the Receivership Estate. [Doc. # 555.] On February 26, 2021, the parties filed that report, and the Court held a status conference on March 5, 2021. In light of VPL’s increasing ability to manufacture masks and the Cardiffs’ representation that sales contracts were likely to materialize, the Court ordered a further report to be filed on March 26, 2021 and set the next status conference for April 2, 2021. [Doc. # 559.]

In lieu of a joint status report, the Receiver filed a report on VPL’s operations on March 26, 2021 report containing the FTC’s comments and observations, and the Cardiffs and VPL filed a separate response on April 1, 2021. [Doc. ## 562, 564]. According to the Receiver, VPL had more than 1.7 million masks on hand but would not be able to sell any masks on Amazon.com, and no sales contracts had been executed. VPL provided a summary of sales leads, but the FTC noted that the Cardiffs and VPL had not provided any evidence of detailed discussions with federal agencies and other purchasers. In consideration of the Receivership Estate’s depletion to less than \$1.2 million, and VPL’s estimated expenses of \$200,000 per month, the FTC requested the Court to shut down VPL. The Cardiffs and VPL responded that the changing federal administration complicated their efforts to sell to federal agencies, but a lobbying firm in Washington, DC had been retained to speak on their behalf with an agency. They revised their estimate for when sales would be consummated to “within the next two or three months.”

At today’s status conference, the Court advised the parties that due to VPL’s delayed timeline for profitability, the Receiver would no longer be authorized to fund VPL operations out of funds designated for consumer redress after this month. The Court gave the parties one month to confirm contracts, acquire additional sources of funding, and/or reach some resolution that would take VPL out of the Receivership imposed on Cardiff and any entity that he controls under the Preliminary Injunction. [See Doc. ## 388, 389.] If no material changes to VPL’s profitability

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or funding or Cardiff's involvement arise before the next status conference, the Court will order the Receiver to cease funding VPL operations effective on May 14, 2021, although VPL will remain free, as it is now, to pursue outside funding to continue its business.

The Court also noted that the Cardiffs, Intervenor Inter/Media Time Buying Corporation, and the senior lienholder on the Cardiffs' residence in Upland, CA, may discuss with the Receiver the possibility of resolving the different interests in the Upland residence.

Accordingly, the Court **ORDERS** the following:

1. Any material communications with third parties regarding new contracts should be shared with the Receiver and may be designated confidential under the Stipulated Protective Order entered on September 24, 2019. [Doc. # 219.] The Receiver can, in the exercise of his discretion, share such communications with counsel for the FTC.
2. By **April 30, 2021**, the Cardiffs, VPL, the FTC, and the Receiver shall file another Joint Status Report, including all information material to the Court's decision to cease Receivership funding for VPL, particularly the status of any contracts, existence of outside funding sources, and/or Cardiff's involvement has changed such that VPL may be taken out of Receivership under the terms of the original Preliminary Injunction in this case. [Doc. # 59.]
 - a. If in the interim the Supreme Court renders its decision in *F.T.C. v. Credit Bureau Center*, 937 F.3d 764 (7th Cir. 2019), *cert. granted*, 2020 WL 3865251 (U.S. July 9, 2020), and *F.T.C. v. AMG Capital Management, LLC*, 910 F.3d 417 (9th Cir. 2018), *cert. granted*, 2020 WL 3865250 (U.S. July 9, 2020), the parties shall include in this report their initial positions on the decision's effects on the Receivership as applied to VPL, as well as a briefing schedule for the remedies phase of this case, if necessary. [See Doc. # 511.]
 - b. The report shall also provide updates, if any, on the status of the Upland residence.
3. The Court shall hold a further video status conference on **May 7, 2021 at 10:00 a.m.**

IT IS SO ORDERED.