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11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

13
 14
 15 AK FUTURES LLC,
 16 Judgment Creditor
 17 v.
 18 SMOKE TOKES, LLC, RAHEEL
 19 LAKHANY, JUMANI LAKHANY,
 20 Judgment Debtors.

Case No. 8:21-cv-01061-JVS-ADS

Related Cases:

- 8:21-cv-01027-JVS- ADS
- 8:21-cv-01028-JVS-ADS
- 8:21-cv-01154-JVS-ADS
- 8:21-cv-02121-JVS-ADS
- 8:23-cv-00307-JVS-ADS

**JUDGMENT CREDITOR’S
 APPLICATION FOR ORDER TO
 SHOW CAUSE RE CONTEMPT**

Date: Monday, May 1, 2023
 Time: 1:30 PM
 Courtroom: 10C
 The Hon. James V. Selna

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1 Plaintiff AK Futures, LLC, by and through its attorneys of record, herby
2 submits this Application for and Order to show cause why Defendant Smoke
3 Tokes, LLC, and “Defendant’s Related Persons” Raheel Lakhany, Jumani Lakhany
4 a/k/a Shafaq Sattar, and non-party ST & Company, LLC (each an “alleged
5 contemnor”), should not be held in contempt for violating the Court’s December 8,
6 2021, Judgment and Permanent Injunction. [Dkt. 26.] As well as for violations for
7 Final Judgments in *AK Futures LLC v. Green Buddha, LLC*, Case No. 8:21-cv-
8 01028-JVS-ALD [Dkt 39] and *AK Futures LLC v. Green Buddha, LLC*, Case No.
9 8:21-cv-01028-JVS-ALD [Dkt 27].

10 As discussed below, Defendant and Defendant’s Related Persons” have
11 violated this Court’s Final Judgment by continuing to display, offer for sale, and
12 sell counterfeit Cake products.

13 FRCP 70(e) and the Court’s ancillary power to enforce its jurisdiction
14 warrant reopening this case for the purpose of sanctioning Defendant and
15 Defendant’s Related Persons for their failure to comply with the Final Judgment .
16 AK Futures, respectively requests the Court exercise its power to reopen this matter
17 for the purpose of holding Defendant and Defendant’s Related Persons in contempt
18 of this Court’s Final Judgment.

19
20 **1. INTRODUCTION: APPLICATION FOR OSC RE CONTEMPT AND AN**
21 **OCTOBER SHOW CAUSE HEARING DATE.**

22 This “**Application**” requests the Court to issue the Proposed Order To Show
23 Cause (“**Proposed OSC**”) against parties and non-parties who are in civil contempt
24 of one or more judgments and injunctions in two related cases: *AK Futures LLC v*
25 *Smoke Tokes, LLC, Case No. 8:21-cv-01061-JVS-ALD [Dkt 26]* (the “**Smoke Tokes**
26 **Judgment and Injunction**”); *AK Futures LLC v. Green Buddha, LLC, Case No.*
27 *8:21-cv-01028-JVS-ALD [Dkt 39]* (the “**Green Buddha Judgment and**
28 **Injunction**”), and its preliminary injunction in *Green Buddha, AK Futures LLC v.*

1 *Green Buddha, LLC, Case No. 8:21-cv-01028-JVS-ALD [Dkt 27]* (the “**Green**
2 **Buddha Preliminary Injunction**”).

3 This “**Application**” seeks civil remedies only, to be awarded after a Show
4 Cause Hearing (the “**Show Cause Hearing**”), where the Contemnors may receive
5 due process and be held to account. Once the Proposed OSC is issued, if it is, then
6 “clear and convincing evidence” will be presented at the Show Cause Hearing based
7 upon documents, declarations when allowed, and live testimony.

8 The Proposed OSC requests the Show Cause Hearing to be held in October
9 2023. Pre-hearing discovery will fill in any “holes” in the evidentiary showing before
10 the Show Cause Hearing date.

11 This *Application* is made following the conference of counsel pursuant to L.R.
12 7-3. *Frost Decla at ¶ 3.*

13 The Proposed OSC requires that four alleged contemnors be present for the
14 Show Cause Hearing. Contemnors Smoke Tokes, LLC, Raheel Lakhany and his
15 brother Jumani Lakhany (a/k/a Shafaq Sattar), are named in the *Smoke Tokes*
16 *Judgment and Permanent Injunction [Dkt 26]*. Contemnor ST & Co, LLC is “legally
17 identified with Smoke Tokes, based upon the facts below.

18 The Proposed OSC seeks civil remedies only, and lists for decision at the Show
19 Cause Hearing compensatory remedies, coercive remedies and conduct-specific
20 remedies.

21
22 **2. THANKS TO THIS COURT AND LAW ENFORCEMENT, CAKE**
23 **COUNTERFEIT NETWORK IS BEING COMPROMISED.**

24 **A. *Six Related Cases Against The Cake Counterfeiting Network.***

25 This case is one of six related cases in the Central District (see caption) against
26 various defendants, all of whom belong to a well-funded, national network of
27 counterfeiters and unauthorized manufacturers, distributors and sellers of inauthentic
28 Cake™ branded delta-8 cannabinoid products (the “**Cake Counterfeiting Network**”

1 and inauthentic “**Cake™ branded products**”).

2 The national Cake Counterfeiting Network includes over 250 “distros,” or
3 retail and resale outlets which sell counterfeit and unauthorized Cake™ branded
4 products to the consumer. The 250-plus distros are located in more than 20 states.
5 They are named and located in “Spreadsheet 2” submitted in connection with the
6 *February 5 Impoundment. Plaintiff’s Supp Response On February 5 Impoundment,*
7 *Spreadsheet 2 [Dkt 43-5]; Clelland Second Decla at ¶2 [Dkt 43-1].*

8 Agents from United States Homeland Security Investigations (USHSI) unit
9 and other federal and local law enforcement agencies have sought out Judgment
10 Creditor’s information on members of the national Cake Counterfeiting Network,
11 and the eventual use of the members’ profits, as well as the importation from China
12 of manufactured counterfeits and components. *Plaintiff’s Response To OSC [Dkt*
13 *34] at 13:32-15:16.*

14 Significant accomplishments to date include the following.

15 ***B. February 5 Impoundment of \$51 Million In Inventory And 17***
16 ***Computers’ Worth Of Business Records.***

17 On February 5, 2022, 11 US Marshalls supported by Plaintiff’s 15
18 professionals seized \$51.6 million in contraband from an Ontario, CA warehouse and
19 shipment fulfillment facility (the “**Ontario Facility**”), which appears to be the West
20 Coast “hub” of the Cake Counterfeiting Network.¹ Over ten containers of inventory,
21 work-in-progress, and pallets ready to ship, were seized and remain in custodial
22 storage answerable to this Court. Business records from 17 computers were “mirror
23 imaged” and documents are now being extracted. *See, January 18 Seizure Order, AK*
24

25 ¹ Meanwhile, Homeland Security seized similar contraband from the suspected “East
26 Coast” hub of the Cake Counterfeiting Network in Tampa, Florida. Plaintiff have
27 worked in coordination with USHSI when possible. *Plaintiff’s Response To OSC,*
28 *Frost Decla [Dkt 34-2], at ¶¶22 and 25.*

1 *Futures v. LCF Labs Inc., Case 8:21-cv-02121 [Dkt 14]; Plaintiff's Response To*
2 *OSC, etc.[Dkt 34] at 1:7-15 and citations therein.*

3 The discovery of the Ontario Facility was one of the accomplishments of a
4 national investigative effort that Judgment Creditor has funded. As described below,
5 this same effort uncovered the contumacious conduct by Smoke Tokes, Raheel,
6 Jumani and ST & Company in Los Angeles, San Antonio and nationally through
7 internet and social media sites. *Frost Decla at ¶¶ 32-59.*

8 Many of the 250 Cake Counterfeiting Network “distros” are owned by the
9 same players, who appear to share familial ties. The two Contemnors here -- Raheel
10 Lakhany and his brother Jumani Lakhany (a/k/a Shafaq Sattar) -- own dozens of these
11 distros, either individually or through special purpose LLCs such as Contemnor ST
12 & Co, LLC. See *Frost Decla at ¶¶ 13-15.*

13 Part and parcel of their serial counterfeiting, the Contemnors have also opened
14 new website domains and social media pages to generate and fill orders for
15 counterfeit Cake™ branded products. These include internet domain names,
16 Facebook pages, Instagram accounts, and YouTube channels. *Frost Decla at ¶¶ 41-*
17 *42, 45, 56-57.*

18 ***C. Successful Court Actions Have Resulted In Significantly***
19 ***Increased Sale of Authentic Cake™ Delta-8 Products***

20 Since the February 5 Impoundment, Plaintiff's sales of authentic Cake-TM
21 Delta-8 products have increased by over 50% and held steady at the increased level
22 for over one year. CEO Clelland attributed the increased sales to prosecution efforts
23 and especially the February 5 Impoundment. Plaintiff CEO James Clelland
24 recognizes as brand-new customers many distros who were previously buying
25 counterfeits, who have for the first time begun ordering authentic Cake™ branded
26 products. *Frost Decla at ¶ 61.*

1 **D. Ninth Circuit Opinion and Copyright Judgment Registrations.**

2 The six related cases have yielded two further accomplishments to date. An
3 unanimous Ninth Circuit panel upheld the preliminary injunction issued by this
4 Court. *AK Futures LLC v Boyd Street Distro, LLC*, 35 F.4th 682 (9th Cir. 2022). The
5 Ninth Circuit opinion is the first nationally prominent opinion to uphold the legal
6 standing of delta-8 cannabinoid consumer products, and in particular, Plaintiff’s
7 Cake™ branded products. *Id.*

8 **And second**, two contested matters have now reached judgment and so act as
9 res judicata:

10 (i) *Judgment and Injunction in AK Futures, LLC v. Boyd Street Distro, LLC*,
11 *Case 8:21-cv-01027-JVS-ALD [Dkt 58]*; and in connection therewith, the *Report On*
12 *The Filing Or Determination Of An Action Or Appeal Regarding A Copyright* was
13 filed and sent to the US Copyright Office Register of Copyrights *[Dkt 59]*. And,

14 (ii) *Judgment and Injunction in AK Futures, LLC v. Limitless Trading Co,*
15 *LLC, Case 8:21-cv-01154-JVS-ALD [Dkt 59]*; and in connection therewith, a second
16 *Report On The Filing Or Determination Of An Action Or Appeal Regarding A*
17 *Copyright* was filed and sent to the US Copyright Office Register of Copyrights *[Dkt*
18 *60]*.

19
20 **3. SMOKE TOKES AND GREEN BUDDHA INJUNCTIONS ARE**
21 **“SPECIFIC AND DEFINITE ORDERS”.**

22 The Court may hold a party in civil contempt, based on clear and convincing
23 evidence that the contemnor “violated a specific and definite order of the court.” *FTC*
24 *v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999). A party also may
25 be held in contempt for aiding and abetting a violation of a court order by a non-
26 party. *Inst. of Cetacean Research v. Sea Shepherd Conservation Soc’y*, 774 F.3d
27 935, 948-50 (9th Cir. 2014).

1 **A. “Specific and Definite Orders” in Paragraph 5E.**

2 The *Smoke Tokes Judgment and Permanent Injunction* [Case 8:21-cv-1061,
3 *Dkt 26*], the *Green Buddha Judgment and Permanent Injunction* [Case 8:21-cv-
4 *0128, Dkt 39*] and the *Green Buddha Preliminary Injunction* [Case 8:21-cv-0128,
5 *Dkt 27*] are “specific and definite orders”. The language in all three is similar and
6 requires the following compliance.

7 **First**, as quoted above from the *Smoke Tokes Judgment and Permanent*
8 *Injunction*, at ¶5E, Smoke Tokes, Raheel Lakhany and Jumani Lakhany (a/k/a
9 Shafaq Sattar) “are hereby **PERMANENTLY RESTRAINED AND ENJOINED**
10 **FROM**” various types of infringement set forth in ¶5E(i) – (v).

11 Beginning in ¶5E(i), the specific conduct permanently enjoined includes the
12 “manufacture, distribution, sale, offering for sale, advertisement and/or promotion”
13 of infringing products. *Id at 2:25 – 3:4 (both Judgments and Permanent Injunction*
14 *and similar language in the Green Buddha Preliminary Injunction at 1:10-17).*

15 Reached in ¶5E(ii) are “reproducing, distributing copies of, and/or displaying
16 to the public” infringing trade dress, packaging or marketing materials. *Id. at 3:5-7*
17 *(both Judgments and Permanent Injunction and the Preliminary Injunction at 1:18-*
18 *20).*

19 Reached in ¶5E(iii) are “creating, using, distributing copies of, and/or
20 displaying to the public any derivative work of the cake [copyrighted] design.” *Id. at*
21 *3:8-10 (both Judgments and Permanent Injunction, but not the Preliminary*
22 *Injunction).*

23 Reached in ¶5E(iv) are “representing directly or indirectly in any form or
24 manner whatsoever, that Smoke Tokes’ [Green Buddha’s] business, products or
25 services are in any manner associated with, sponsored by, or approved by” Judgment
26 Creditor or its Cake™ brand. *Id. at 3:11-17 (both Judgments and Permanent*
27 *Injunction and the Preliminary Injunction at 1:21-26).*

1 Finally, ¶5E(v) reaches any actions “assisting, aiding, or abetting any person
2 or business entity in engaging in or performing any of the actions referred to” above.
3 *Id. at 3:18-20 (both Judgments and Permanent Injunction and the Preliminary*
4 *Injunction at 2:1-3).*

5 These subparagraphs are “specific,” reciting the many specific ways
6 infringement might occur. And they are “definite” orders” – in other words, there is
7 no question but that the Court is ordering that such conduct be prohibited. *See, Sacco*
8 *v. Burke*, 764 F.Supp. 918, 921 (S.D.N.Y.1991) (“The only defenses to civil contempt
9 are (1) that the order claimed to be violated is vague and indefinite as to whether
10 particular action is required *** [*other defenses listed next*]”).)

11 ***B. “Specific And Definite Orders” In Paragraphs 5F and 5G.***

12 In ¶5F, Smoke Tokes and “Defendant’s Related Persons” including Raheel
13 and Jumani, are required to “destroy all products, labels, signs, prints, packages,
14 wrappers,” and any other item that “depicts uses, or copies” the Cake copyrights,
15 trademarks or trade dress. *Id. at ¶5F at 3:21-26 (both Judgments and Permanent*
16 *Injunction but not the Preliminary Injunction).*

17 In ¶5G, Smoke Tokes and “Defendant’s Related Persons” including Raheel
18 and Jumani, are required to “file with this Court... within 30 days after entry of the
19 injunction a report in writing under oath setting forth in detail the manner and form
20 in which Smoke Tokes has complied with the injunction and ceased all offering or
21 promoting of unauthorized and inauthentic Cake-branded goods.” *Id. at ¶5G at 3:27*
22 *– 4:4 (both Judgments and Permanent Injunction but not the Preliminary Injunction).*

23 No such actions were taken and no such reports were filed by Smoke Tokes,
24 Raheel or Jumani. *Frost Decla at ¶ 9.*

25 ***C. Chronology For Adoption Of Injunctions.***

26 *Green Buddha Preliminary Injunction [Case 8:21-cv-01028, Dkt 27]* is dated
27 August 16, 2021. Then, some four months later, on December 8, 2021, both the
28

1 *Smoke Tokes Judgment and Injunction [Dkt 26]* and the *Green Buddha Judgment*
2 *and Injunction [Case 8:21-cv-01028, Dkt 39]* were filed.

3 The parties reached by the *Green Buddha Preliminary Injunction* are
4 “Defendant Green Buddha, LLC (“Green Buddha”), its officers, agents, servants,
5 employees, and attorneys, and any other persons who are in active concert or
6 participation with Green Buddha.” As is made clear in the *Green Buddha Judgment*
7 *and Injunction*, these include “Defendant’s Related Persons”, named as Raheel
8 Lakhany and Shafaq Sattar (a/k/a Jumani Lakhany). [*Case 8:21-cv-01028, Dkt 39 at*
9 ¶5E, 2:18-24]. The *Green Buddha Preliminary Injunction* prohibits much of the
10 same infringing conduct as the *Green Buddha Judgment and Injunction*, but does not
11 require any destruction of inventory or compliance report to the Court [*Case 8:21-*
12 *cv-01028, Dkt 27, at 1:6 - 2:3*]. These are required by the *Green Buddha Judgment*
13 *and Injunction*, as stated above.

14 15 **4. PARTIES AND NON-PARTIES REACHED BY JUDGMENTS AND** 16 **INJUNCTIONS.**

17 ***A. “Defendant’s Related Parties” include Contemnors Raheel*** 18 ***Lakhany and Jumani Lakhany (a/k/a Shafaq Sattar).***

19 The *Smoke Tokes and Green Buddha Judgments and Injunctions* are nearly
20 identical. The parties reached are set forth in ¶5E:

21 Smoke Tokes and its partners, officers, directors, employees, agents, owners,
22 and representatives and all persons, firms, and corporations in active concert
23 or participation with any of them as described in Federal Rules of Civil
24 Procedure Rule 65(d)(2), including without limitation individuals Raheel
25 Lakhany, Shafaq Sattar and Amin Habibullah (collectively, “**Defendant’s**
26 **Related Persons**”) are hereby PERMANENTLY RESTRAINED AND
ENJOINED FROM”

27 various types of infringing conduct (*emphasis added*). *Smoke Tokes Judgment and*
28 *Permanent Injunction [Dkt 26 at 2:18-24]*. The same language is in ¶5E of the *Green*

1 *Buddha Judgment and Permanent Injunction.* However, in that case, the
 2 “Defendant’s Related Persons” are only Raheel Lakhany and Shafaq Sattar (a/k/a
 3 Jumani Lakhany) [*Case 8:21-cv-01028, Dkt 39 at 2:18-24*].

4 ***B. Contemnor ST & Co, LLC Is “Legally Identified” With Smoke***
 5 ***Tokes for Five Reasons.***

6 **First**, Smoke Tokes LLC was cancelled on August 08, 2021, and does not
 7 appear to have reopened in any other states. *Frost Decl at ¶ 12 and Exhibit 3.*
 8 Investigation has found that ST & Company LLC, a business registered to Raheel
 9 Lakhany, is now doing business as Smokes Tokes, LLC. *Frost Decl at ¶¶ 13-15, and*
 10 *Exhibit 6.*

11 **Second**, ST & Company LLC lists as its Managing Members Raheel Lakhany
 12 and Jumani Lakhany a/k/a Shafaq Sattar. ST & Company LLC is a registered
 13 business in California. *Frost Decl at ¶ 13 and Exhibit 4.*

14 **Third**, ST & Company LLC attempted to become the new owner of various
 15 trademarks owned by Smoke Tokes, LLC. The Trademark Office Electronic Search
 16 System (“TEAS”) display for the Smoke Tokes “Hoodie” Logo trademark
 17 registration establishes that Smoke Tokes LLC remains the Registrant and owner of
 18 record of the Smoke Tokes Logo mark, despite its purported “dissolution” on August
 19 4, 2021. *Frost Decl at ¶ 14 and Exhibit 5.* A second TEAS printout establishes that
 20 “ST & Company LLC dba Smoke Tokes LLC” applied to register a “color” version
 21 of the Smoke Tokes “Hoodie” logo trademark in ST & Company’s name. *Frost Decl*
 22 *at ¶ 15 and Exhibit 6.* To accomplish this objective, ST & Company represented to
 23 the USPTO Examiners that “Smoke Tokes LLC” - the registrant and record owner
 24 of the black & white “Hoodie” logo mark - was merely its fictitious business name.
 25 *Id.*

26 **Fourth**, ST & Company LLC provided the cashier’s check for \$658,738 to
 27 fulfill the agreement of counsel made during the *December 9 Enforcement Action* at
 28

1 the Smoke Tokes Superstore in downtown Los Angeles. The agreement of counsel
2 provided that four moving vans of Smoke Tokes' non-exempt business inventory in
3 possession of the Marshals would be returned to the Smoke Tokes Superstore, in
4 return for a cashier's check made payable to the Marshals. The cashier's check
5 indicates that it was drawn from ST & Company's bank account. *Frost Decl at ¶ 17*
6 *and Exhibit 7.*

7 **And fifth**, during negotiations leading to the agreement of counsel, attorney
8 William Kroger for Smoke Tokes admitted that ST & Company was Smoke Tokes'
9 successor in interest. He inserted into the agreement of counsel the requirement for
10 ST & Company be able to argue to the Court that the \$658,738 cashier's check should
11 be returned because *all of the inventory* at the Smoke Tokes Superstore was actually
12 owned by ST & Company, not by Smoke Tokes. *Frost Decl at ¶¶ 16-18.*

13 ***C. Contemnors Are Serial Counterfeiters -- Downtown LA Fire***
14 ***and Criminal Indictment Of Raheel And Jumani Lakhany.***

15 On May 17, 2020, a fire broke out in a warehouse jointly operated by Judgment
16 Debtors Smoke Tokes and Green Buddha. When firefighters entered the building and
17 climbed onto the roof, a series of explosions went off, forcing firefighters to run
18 through a 30-foot-wide fireball to get out of the building. Due to the explosions, 12
19 firefighters were injured -- several were hospitalized in critical condition with severe
20 burns. According to the Los Angeles City Attorney's investigation, the explosions
21 and fireballs were due to butane canisters stored in an unsafe, illegal manner. The
22 Los Angeles City Attorney filed over 300 criminal charges against Contemnors
23 Smoke Tokes, Raheel Lakhany, Jumani Lakhany (a/k/a Shafaq Sattar) and others. In
24 November 2020, the Los Angeles City Attorney's office reached a plea agreement.
25 Smoke Tokes and Green Buddha ceased operations, pleaded no contest to four
26 municipal code violations, and paid \$127,000 to the City. In return, all criminal
27
28

1 charges against Raheel and Jumani Lakhany aka Shafaq Sattar were dropped. *Frost*
2 *Decla ¶ 50 and Exhibit 25, LA Times Article.* ²

3
4 **5. ACTUAL NOTICE TO EACH CONTEMNOR.**

5 To bind a party or non-party requires “actual notice” of the *Judgment and*
6 *Injunction. FRCP Rule 65(d)(2)* addresses “Persons Bound” and states in part, “The
7 order binds only the following who received actual notice of it by personal service or
8 otherwise: (A) the parties; (B) the parties’ officers, agents, servants, employees, and
9 attorneys; and (C) other persons who are in active concert or participation with
10 anyone described in *** (A) or (B).”

11 **A. Actual Notice to Smoke Tokes.**

12 AKF filed its complaint June 16, 2021. On June 21, 2021, AKF served the
13 complaint, summons and related documents on Defendant Smoke Tokes, LLC
14 through substituted service of its registered agent, Raheel Lakhany, by leaving a copy
15 of the documents with a person in charge and mailing a copy of the documents to the
16 registered agent that same day. The proof of service was filed with the Court [*Dkt.*
17 *12*],

18 Business records were “mirror imaged” by the Marshals and the Substitute
19 Custodian during the *December 9 Enforcement Action* from computers, servers and
20 Raheel Lakhany’s cellphone. The “mirror images” on Raheel’s cellphone established
21 that Raheel actually received and saved a copy of the *Smoke Tokes Complaint [Dkt*
22 *1]* on his cellphone. *Frost Decla ¶¶ 21-22 and Exhibit 10.*

23
24
25 _____
26 ² There was an earlier major fire at a different Smoke Tokes facility in 2016. The
27 2016 fire took 160 firefighters to put out, due to the fact that butane gas canisters
28 were exploding during the fire. No firefighters were injured during the 2016 Smoke
Tokes fire. *Frost Decla ¶ 52.*

1 AKF also timely served all other filings and docket items on Raheel as Smoke
2 Tokes' registered agent for service of process. For example, AKF served Smoke
3 Tokes through its agent Raheel with copies of AKF's *Request For Entry Of Default*
4 against it on August 6, 2021 [Dkt 17]. AKF likewise served Raheel on behalf of
5 Smoke Tokes with AKF's *Motion for Entry of Default Judgment and Permanent*
6 *Injunction* [Dkt 22].

7 Smoke Tokes again received actual notice of the *Smoke Tokes Judgment and*
8 *Permanent Injunction*, on December 9, 2022, as part of the *December 9 Enforcement*
9 *Action. Marshals Return Showing Service Of Process on December 9, 2023* [Dkt 45
10 *at page 1*] and *Frost Decla at ¶ 24*.

11 ***B. Actual Notice to Raheel and Jumani Lakhany.***

12 As stated above, Raheel is agent for service of process for Smoke Tokes, LLC.
13 Raheel and Jumani are its managing members. Actual notice of the *Smoke Tokes*
14 *Judgment and Permanent Injunction* was received by Raheel as agent for service of
15 process for Smoke Tokes. [Dkt. 22.] Further discovery is needed to see that Jumani
16 also had actual notice. *Frost Decla at ¶ 25*.

17 Raheel and Jumani also are the managing members of Green Buddha LLC. In
18 addition, Raheel also serves as Green Buddha's registered agent for service of
19 process. *Frost Decla at ¶ 26 and Exhibit 11*. On June 10, 2021, AKF filed its lawsuit
20 against Green Buddha and the proof of service was filed with the Court [Case No.
21 8:21-cv-01028-JVS-ADS, Dkt 12]. *Frost Decla at ¶ 27*.

22 On July 2, 2021, AKF moved for preliminary injunction against Green Buddha
23 [Case No. 8:21-cv-01028-JVS-ADS, Dkt. 15]. On August 4, 2021, the Court granted
24 the *Green Buddha Preliminary Injunction* [Case No. 8:21-cv-01028-JVS-ADS, Dkt.
25 27]. Both documents were served on Raheel as agent for service of process for Green
26 Buddha. Further discovery is needed to see that Jumani also had actual notice.
27
28

1 As stated above, Raheel Lakhany was personally present at the *December 9*
2 *Enforcement Action* and received actual notice of the *Smoke Tokes Judgment and*
3 *Permanent Injunction* at that time. Further discovery is needed to see that Jumani
4 also had actual notice. *Marshals Return Showing Service Of Process on December*
5 *9, 2023 [Dkt 45 at page 1] and Frost Decla at ¶ 29.*

6 **C. Actual Notice to ST & Co, LLC.**

7 The co-managing members of ST & Company are Raheel and Jumani. *Frost*
8 *Decla Exhibit 4.* In addition, Raheel is the agent for service of process. Actual notice
9 to Raheel and Jumani, as agents, also reached ST & Company, LLC. In addition,
10 Raheel Lakhany was personally present at the *December 9 Enforcement Action* and
11 received actual notice of the *Smoke Tokes Judgment and Permanent Injunction* at
12 that time. *Marshals Return Showing Service Of Process on December 9, 2023 [Dkt*
13 *45 at page 1] and Frost Decla at ¶ 31.*

14
15 **6. FACTS OF CONTUMACIOUS CONDUCT AND ROLE OF EACH**
16 **CONTEMNOR.**

17 **A. Actual Violation #1: No Reports or Accountings Rendered By**
18 **Smoke Tokes, Raheel or Jumani.**

19 Both the *Smoke Tokes Judgments and Injunction* and the *Green Buddha*
20 *Judgment and Injunction*, at ¶5F, require that counterfeit goods be retrieved and
21 presented for destruction. At ¶5G, both require a compliance report to the Court on
22 or before January 7, 2022 (30 days after the December 8 filing dates). *Smoke Tokes*
23 *Judgment and Permanent Injunction [Case 8:21-cv-1061, Dkt 26], at 3:21 – 4:4; and*
24 *Green Buddha Judgment and Permanent Injunction [Case 8:21-cv-0128, Dkt 39], at*
25 *3:21 – 4:4.*

26 No such reports or accountings were ever filed or served. *Frost Decla at ¶ 9.*
27 The failure to do so is a violation of the “specific and definite order” by this Court.

28 Contemnors Smoke Tokes, Raheel Lakhany and Jumani Lakhany (a/k/a Shaiq

1 Sattar), are subject to ¶5F and ¶5G and are named parties in the *Smoke Tokes*
 2 *Judgment and Injunction*. Similarly, Raheel and Jumani are also reached as
 3 “Defendant’s Related Parties” named in the *Green Buddha Judgment and Injunction*.

4 **The Proposed OSC requests that the Show Cause Hearing determine a**
 5 **penalty of \$5,000 per day for the failure to destroy inventory, and \$5,000 per**
 6 **day for the failure to render the compliance report. The Contemnors would be**
 7 **jointly and severally liable for each such violation.** The dates the penalty amounts
 8 begin to accrue may be alternatively: (i) January 7, 2022 (30 days after entry of the
 9 *Judgments and Injunctions* on December 8, 2021); or (ii) a later date chosen by the
 10 Court.

11 ***B. Actual Violation #2: New Smoke Tokes Superstore Sold***
 12 ***Counterfeit and Unauthorized Cake™ Branded Products.***

13 This Court issued its “**Enforcement Order**” authorizing the *December 9*
 14 *Enforcement Action* at the Smoke Toke Superstore in downtown Los Angeles [*Dkt*
 15 *36*]. This Court then upheld the *Enforcement Order* after an Order To Show Cause
 16 Hearing on January 23, 2023, with the exception of the amount of the \$658,738
 17 cashier’s check paid to the Marshals pursuant to the agreement of counsel [*Dkt 65*].

18 Recent buys of counterfeit or unauthorized Cake™ branded products at the
 19 Smoke Tokes Superstore were conducted in May and July 2022. *Frost Decla at ¶¶*
 20 *53-58, and Exhibits 26 and 27*. Similarly, at the *December 9 Enforcement Action*, the
 21 Marshals took possession of more counterfeit items that were reported to the Court.
 22 *Marshals Return Showing Service Of Process dated December 9, 2023 [Dkt 45 at*
 23 *pp.2-10]*.

24 Contemnor Smoke Tokes is reached as the party whose business inventory
 25 included the counterfeit items. Contemnors Raheel and Jumani are reached as
 26 controlling owners and managers of Smoke Tokes (they are “Defendant’s Related
 27 Parties” named in the *Smoke Tokes Judgment and Injunction*), or as aiders and
 28

1 abettors. Contemnor S.T. & Company, LLC is reached as being “legally identified”
2 with defendant Smoke Tokes, or its aider and abettor.

3 **The Proposed OSC requests a penalty of the larger of (i) disgorgement of**
4 **the gross proceeds of any such sales; or (ii) the maximum statutory penalty for**
5 **trademark infringement and a second maximum penalty of \$150,000 for**
6 **copyright infringement.** Each Contemnor would be jointly and severally liable for
7 these amounts.

8 ***C. Actual Violation #3: New Sales In Eight Smoke Tokes Stores***
9 ***In San Antonio, TX.***

10 Eight “distros” in San Antonio, Texas use the Smoke Tokes name and have
11 sold counterfeit Cake™ branded products. On August 17, 2021, the day after Raheel
12 received service of the *Green Buddha Preliminary Injunction*, AKF’s investigators
13 in Texas purchased counterfeit Cake™ branded delta-8 products at each one of the
14 eight different Smoke Tokes distros in San Antonio. *Frost Decl at ¶ 39 and Exhibit*
15 *15.*

16 The sale of counterfeits was not limited to Smoke Tokes, Raheel and Jumani,
17 but also included ST & Company. *Frost Decl at ¶¶ 40 and Exhibits 16.*

18 Contemnors Raheel and Jumani are reached as “Defendant’s Related Parties”
19 named in the *Smoke Tokes Judgment and Injunction*. Contemnor S.T. & Company,
20 LLC is reached as being “legally identified” with defendant Smoke Tokes, or its aider
21 and abettor.

22 **The Proposed OSC requests a penalty of the larger of (i) disgorgement of**
23 **the gross proceeds of any such sales; and (ii) the maximum statutory penalty of**
24 **for trademark infringement plus a second maximum penalty of \$150,000 for**
25 **copyright infringement.** Each Contemnor would be jointly and severally liable.

26 ***D. Actual Violation #4: Internet Domain Names***

27 The Smoke Tokes Superstore reaches the national Cake Counterfeiting
28

1 Network, and a national consumer audience, through the internet domain name,
 2 www.smoketokes.com. In addition, other domains are present in Instagram,
 3 Facebook, Twitter and YouTube. More discovery will be taken to establish “clear
 4 and convincing evidence” of counterfeit through social media prior to the October
 5 Show Cause Hearing date and then submitted at trial. *Frost Decla at ¶¶ 41-42, 45,*
 6 *57, Exhibits 17, 18, 21, 27.*

7 The Proposed OSC provides that a new website would provide disclosures to
 8 consumers that the past website owner is not affiliated with Judgment Creditor or
 9 Cake™ branded products. It would provide “links” to filings in this action as well
 10 as authorized dealers of Cake™ branded products. *See, Chanel, Inc. v. eukuk.com,*
 11 *2011 WL 6955734, at *5-6 (directing registrar to redirect domain names to webpage*
 12 *with copy of documents from the action); Asmodus, Inc. v. Junbiao Ou, No.*
 13 *EDCV162511JGBDTBX, 2017 WL 2954360, at *5-6, 19 (C.D. Cal. May 12, 2017)*
 14 *(granting preliminary injunction ordering defendant to post notice of the order on its*
 15 *websites, including that they had no affiliation with plaintiff trademark holder and*
 16 *could not sell products with plaintiff’s marks.)*

17 Contemnors Smoke Tokes, Raheel and Jumani are reached as named parties
 18 in the *Smoke Tokes Judgment and Injunction*. Contemnor S.T. & Company, LLC is
 19 reached as being “legally identified” with defendant Smoke Tokes, or its aider and
 20 abettor.

21 **The Proposed OSC requests a “takedown order” aimed at these domain**
 22 **names and social media pages. The “takedown” order directs the website host**
 23 **to disable such websites and pages, and re-route internet traffic to the new site**
 24 **controlled by Judgment Creditor.**

25 ***E. Actual Violation #5: Bank Account Payments***

26 Contemnors have used a variety of bank accounts and credit cards in
 27 connection with counterfeiting activities. These include Bank of the West accounts
 28

1 and Amex credit cards used in connecting with the violations above. *Frost Decla at*
2 ¶ 62. **The Proposed OSC requests seizure of all of the funds in the bank**
3 **accounts; directs the banking institutions to shut down the bank accounts and**
4 **credit cards; and to turn over all bank records to Judgment Creditor.**

5 ***F. Attorneys Fees And Third Party Costs.***

6 The Proposed OSC seeks as a remedy at the Show Cause Hearing that all
7 Contemnors be jointly and severally liable for Plaintiff’s attorneys fees and third
8 party costs not previously awarded. Plaintiff will submit new declarations, exhibits
9 and live testimony at the Show Cause Hearing. The Court will note that attorneys
10 fees and third party costs through January 31, 2023 are requested in *Judgment*
11 *Creditor AK Futures LLC’s Motion For Post Judgment Attorneys’ Fees And Third*
12 *Party Costs Through Jan 31, 2023 [Dkt 74]*, to be heard on April 3, 2023.

13
14 ***G. Deposition and Other Discovery Prior To The Show Cause***
15 ***Hearing In October 2023.***

16 More discovery will be taken to establish “clear and convincing evidence” as
17 may be needed prior to the Show Cause Hearing date. Live testimony and new
18 exhibits then will be submitted at the Show Cause Hearing.

19 The *Proposed OSC* provides for the Court to choose the number of trial days
20 to set aside (perhaps two days?). Prior to the Show Cause Hearing, each party is
21 permitted discovery, including third party discovery, in accordance with the Federal
22 Rules of Civil Procedure and Local Rules pertaining to pretrial discovery.

23 **7. CIVIL CONTEMPT LEGAL STANDARDS CONSIDERED IN DEPTH.**

24 ***A. Civil Contempt Legal Standard***

25 “A person fails to act as ordered by the court when he fails to take all the
26 reasonable steps within his power to insure compliance with the court’s order.” *In*
27 *re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir. 1987) (internal
28

1 quotation and alterations omitted). The complaining party is not required to show
 2 that the contemnor’s violation of the court order was “willful.” *Crystal Palace*, 817
 3 F.2d at 1365 (citing *Perry v. O’Donnell*, 759 F.2d 702, 704-706 (9th Cir. 1985)).

4 Neither advice of counsel nor “exceptional circumstances” constitute a
 5 defense. *Institute Of Cetacean Research v. Sea Shepherd Conservation Society* (9th
 6 Cir.2014) 774 F.3d 935, 955 (“A party’s good faith reliance on the advice of counsel
 7 does not excuse the violation of a court’s order”); *Crystal Palace*, 817 F.2d at 1365
 8 (The “‘exceptional circumstances’ offered by the appellants are irrelevant. If a
 9 person disobeys a specific and definite court order, he may properly be adjudged in
 10 contempt.”)

11 ***B. Actual Notice Requirement In Rule 65(d) And Certain Non-***
 12 ***Parties Bound.***

13 Rule 65(d)(2) states in part, “The order binds only the following who received
 14 actual notice of it by personal service or otherwise: (A) the parties; (B) the parties’
 15 officers, agents, servants, employees, and attorneys; and (C) other persons who are
 16 in active concert or participation with anyone described in *** (A) or (B).” Courts
 17 have held the “or otherwise” language in Rule 65(d) means that personal service is
 18 not required to bind non-parties, so long as the non-parties receive “actual notice.”
 19 *Optronix Techs., Inc. v. Ningbo Sunny Elec.*, 2020 U.S. Dist. LEXIS 116931, at *15-
 20 16 (N.D. Cal. July 2, 2020) (personal service of an Injunction on non-parties is
 21 unnecessary because the Court has jurisdiction to enforce an Injunction so long as
 22 the non-parties had actual notice of the Court’s Order).

23 Rule 65(d)(2) binds any non-party with actual notice who either “abet[s] the
 24 [enjoined party] in violating the injunction or is ‘legally identified’ with the enjoined
 25 party.” *United States v. Baker*, 641 F.2d 1311, 1313 (9th Cir. 1981). A finding of
 26 “legal identity” may be based on either the non-party’s close affiliation with the
 27 enjoined party prior to the injunction, *see id. at 633-34*, or its status as a successor to
 28

1 the enjoined party. *Golden State Bottling Co., Inc. v. NLRB*, 414 U.S. 168, 179-80
 2 (1973); *Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 14 (1945), (expressly holding Rule
 3 65(d)(2) reflects these principles). See also *Consumer Fin. Prot. Bureau v. Howard*
 4 *Law, P.C.*, 671 F. Appx 954, 955 (9th Cir. 2016).

5 “The purpose of Rule 65(d) is in essence to ensure that defendants may not
 6 nullify a decree by carrying out prohibited acts through aiders and abettors, although
 7 they were not parties to the proceeding.” *SEC v. The Better Life Club of America,*
 8 *Inc.*, 995 F.Supp. 167, 180 (D.D.C. 1998) (imposing a disgorgement order against
 9 innocent transferees of primary violators subject to an asset freeze injunction because
 10 gratuitous donees are not bona fide purchasers). *Also see SEC v. Lybran*, 2000 WL
 11 913894, at* 12 (S.D.N.Y. 2000) (“Federal courts may order equitable relief against
 12 a person regardless of their alleged wrongdoing where the person: (i) has received
 13 ill- gotten funds; and (2) does not have a legitimate claim to those funds.”)

14 ***C. To Enforce Judgments, This Court’s Jurisdiction Reaches***
 15 ***Beyond The Central District of California.***

16 “Because the injunction operates *in personam*, not *in rem*, there is no reason
 17 to be concerned about its territorial reach.” *FTC v. Affordable Media, LLC, supra*,
 18 179 F.3d at 1238-44 (affirming contempt decree against defendants for failing to
 19 comply with preliminary injunction directing defendants to repatriate the assets in
 20 their Cook Islands trust). *See also, Haisten v. Grass Valley Medical Reimbursement*
 21 *Fund, Ltd.*, 784 F.2d 1392, 1396 (9th Cir. 1985) (district court had *in personam*
 22 jurisdiction of Cayman Islands entity because it intentionally caused effects in
 23 California). If the court has *in personam* jurisdiction of a party, then an injunction
 24 against that party can prevent it from dissipating its assets, no matter where those
 25 assets are located. *Republic of Philippines v. Marcos*, 862 F.2d 1355, 1364 (9th Cir.
 26 1988); *FDIC v. Garner*, 125 F.3d 1272, 1280 (9th Cir. 1997) (“A court is authorized
 27
 28

1 to impose a preliminary injunction on assets which were controlled by a party, even
2 if that party did not expressly own or possess those assets.”).

3 ***D. Civil Contempt Remedies May Be Chosen To “Compel or***
4 ***Coerce,” Or To “Compensate,” Or Both.***

5 Civil contempt is remedial and so the penalty must serve “either or both of two
6 distinct purposes; to coerce obedience to a court order and to compensate the
7 complainant for losses sustained.” *United States v. United Mine Workers of America*,
8 330 U.S. 258, 303-04 (1947). Further, the Court has broad powers to issue different
9 types of sanctions to remedy different types of contumacious conduct. These include
10 “fine[s], imprisonment, receivership, and a broader category of creative,
11 nontraditional sanctions.” *Jones v. All Am. Auto Prot., Inc.*, No. 3:14-cv-00199-
12 LRH, 2016 U.S. Dist. LEXIS 69409, at *2 (C.D. Cal. May 24, 2016) (citations
13 omitted).

14 **Compensatory Remedies.** The Court may award various forms of damages
15 including attorney’s fees and costs incurred by the complaining party in addressing
16 the contempt, as well as resources expended or wasted as a result of defendant’s
17 misconduct. *Sea Shepherd*, 774 F.3d at 949-50 (allowing recovery of attorney’s fees
18 and costs expended in contempt proceedings as well as resources wasted); *Crystal*
19 *Palace*, 817 F.2d at 1363 (allowing recovery of funds expended because of
20 contempt).

21 Additionally, the Court may order disgorgement of ill-gotten gains stemming
22 from a violation of a court order. *Jerry’s Famous Deli, Inc. v. Papanicolaou*, 383
23 F.3d 998, 1004 (9th Cir. 2004) (approving of disgorgement of profits as measure of
24 contempt sanction).

25 **Coercive Remedies.** The Court may also impose sanctions intended to coerce
26 current or future compliance. *CBS Broad. Inc. v. FilmOn.com, Inc.*, 814 F.3d 91, 103
27 (2d Cir. 2016) (“The district court’s ‘civil contempt powers are particularly adapted
28

1 to curb recidivist offenders’ where future noncompliance is a well-founded
 2 concern.”). In imposing such a sanction, the Court should consider “the character and
 3 magnitude of the harm threatened by continued contumacy, and the probable
 4 effectiveness of any suggested sanction in bringing about the result desired.” *United*
 5 *Mine Workers of America*, 330 U.S. at 303; *see also Whittaker Corp. v. Execuair*
 6 *Corp.*, 953 F.2d 510, 516 (9th Cir. 1992).

7 ***E. Specific Remedies May Be Fashioned To Sanction Specific***
 8 ***Violations.***

9 Specific remedies should address three types of injuries suffered by Plaintiff
 10 because of infringements and violations of the *Judgments and Injunctions*.

11 **1. SALE OR DISTRIBUTION OF COUNTERFEIT GOODS.**

12 In *Blackberry Ltd. v. Typo Prods. LLC*, 2015 U.S. Dist. LEXIS 13540, at *15
 13 (N.D. Cal. Feb. 4, 2015), the defendant violated an injunction prohibiting sales of
 14 certain enjoined inventory, and the court determined, “...an appropriate sanction
 15 should be the amount of total sales made in violation of the Injunction.” It ordered
 16 the defendant to disgorge and pay to the plaintiff the total gross proceeds generated
 17 by all enjoined sales, plus attorney’s fees and costs incurred in connection with
 18 defendant’s contempt. *Id.* Regarding copyright cases specifically, the Ninth Circuit
 19 held in *BMG Music v. Perez*, 952 F.2d 318, 320 (9th Cir. 1991) that a sanction of
 20 \$15,000 for each violation of the preliminary injunction, or an amount no greater than
 21 maximum statutory damages for the resulting copyright infringement, did not
 22 constitute an abuse of the lower court’s discretion.

23 **2. REMEDIES FOR INTANGIBLE INJURIES.**

24 The Court is allowed to reach and remedy misconduct that is ongoing and
 25 causes irreparable injury. *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th
 26 Cir. 2014) (“intangible injuries” constitute irreparable harm); *Regents of Univ. of Cal.*
 27 *v. Am. Broad. Cos., Inc.*, 747 F.2d 511, 520 (9th Cir. 1984) (harm to reputation is
 28

1 irreparable injury). *See, e.g., United States v. Hoover*, 240 F.3d 593, 596 (7th Cir.
2 2011) (“The essential elements of criminal contempt are a lawful and reasonably
3 specific order of the court, and a willful violation of that order.”).

4 3. TAKEDOWN OF INTERNET DOMAINS.

5 Additionally, courts in the Ninth Circuit have deemed it appropriate to seize
6 control of domain names and seller identifications used on e-commerce websites.
7 *Williams-Sonoma, Inc. v. Friendfinder, Inc.*, No. C06-6572JSW (MEJ), 2007 WL
8 4973848, at *10 (N.D. Cal. Dec. 6, 2007) and *Williams-Sonoma, Inc. v. Online Mktg.*
9 *Servs., Ltd.*, No. C 06-06572 JSW, 2008 WL 596251, at *3 (N.D. Cal. Mar. 4, 2008)
10 (both involving order preliminarily barring sale or transfer of defendants’ domain
11 names); *Spy Optic Inc. v. Individuals, Partnerships & Unincorporated Ass'ns*, 2017
12 WL 10592133, at *2-3 (C.D. Cal. Nov. 27, 2017) (enforcing preliminary injunction
13 barring transfer of defendants’ “Internet based e-commerce store businesses under
14 their seller IDs.”).

15 Appropriate relief often include orders compelling domain name registrars,
16 which control the transfer of domain names, to deposit domain name certificates with
17 the court. *See* 15 U.S.C. § 1114(2)(D); 15 U.S.C. § 1125(d)(2); *Cisco Sys. v. Shenzhen*
18 *Usource Tech. Co.*, 2020 WL 4196273, at *11 (N.D. Cal. Aug. 10, 2020) (“an order
19 barring Defendants from transferring their seller identifications and Domain Names,
20 requiring transfer of control of such domain names to a U.S. based registrar of
21 [Petitioners’] choice (while legal ownership remains with Defendants), and requiring
22 deposit of domain name certificates with the Court, would impose no real burden on
23 Defendants.”)

24 A “takedown order” ensures that ownership of the domain names cannot be
25 changed, thereby maintaining the potential for Judgment Holders to obtain full relief.
26 For example, in *AT&T Intellectual Prop. II, L.P. v. Toll Free Yellow Pages Corp.*,
27 No. CV095707-PSG, 2010 WL 11508795, at *5 (C.D. Cal. Feb. 8, 2010), the owners
28

1 of the Yellowpages.travel website were held in contempt for violating a preliminary
2 injunction and ordered to pay plaintiff’s attorneys fees and more than \$100,000 in
3 penalties for their improper postings on third-party websites including Facebook,
4 LinkedIn and YouTube. *Id.* at *2-3, 5.

5

6 **8. CONCLUSION**

7

8 Judgment Creditor respectfully request that this Court sign the Proposed OSC
9 submitted herewith and set an October 2023 as the date for the Show Cause Hearing

10

11

Respectfully Submitted by,

12

13 DATED: March 28, 2023

THE FROST FIRM

THOMAS C. FROST

14

/s/ Thomas Frost

15

THOMAS C. FROST

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Attorneys for Judgment Creditor AK Futures LLC

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