

Peggy Hunt (Utah State Bar No. 6060)  
Michael F. Thomson (Utah State Bar No. 9707)  
John J. Wiest (Utah State Bar No. 15767)

**DORSEY & WHITNEY LLP**

111 South Main Street, 21st Floor

Salt Lake City, UT 84111-2176

Telephone: (801) 933-7360

Facsimile: (801) 933-7373

Email: [hunt.peggy@dorsey.com](mailto:hunt.peggy@dorsey.com)

[thomson.michael@dorsey.com](mailto:thomson.michael@dorsey.com)

[wiest.john@dorsey.com](mailto:wiest.john@dorsey.com)

*Attorneys for Court-Appointed Receiver Peggy Hunt*

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff.

v.

TRAFFIC MONSOON, LLC, a Utah Limited  
Liability Company, and CHARLES DAVID  
SCOVILLE, an individual,

Defendants.

**RECEIVER'S *EX PARTE* MOTION  
SEEKING AN ORDER TO SHOW  
CAUSE WHY CHARLES D. SCOVILLE  
SHOULD NOT BE HELD IN  
CONTEMPT**

2:16-cv-00832-JNP

The Honorable Jill N. Parrish

---

Peggy Hunt, as the Court-appointed Receiver in the above-captioned case (the "Receiver"), by and through counsel, hereby respectfully requests that the Court enter the *Order to Show Cause* as proposed in **Exhibit 1** attached hereto, requiring Defendant Charles D. Scoville ("Scoville") to appear before this Court and establish why he should not be held in contempt for transferring property of the Receivership Estate in violation of this Court's *Preliminary Injunction* and *Orders* appointing the Receiver discussed in further detail below. In conjunction with this Motion, the Receiver has filed a *Motion Seeking Accounting and Turnover*

*of Manchester Flat Sale Proceeds* (the “Turnover Motion”). This Motion and the Turnover Motion are supported by the *Declaration of Peggy Hunt, Receiver* (the “Declaration”), filed contemporaneously herewith.

For the reasons set forth below, the Receiver maintains that there is sufficient cause to enter the proposed *Order to Show Cause*. Given the seriousness of the allegations set forth herein, the Receiver requests that Court schedule a hearing as soon as possible. In support hereof, the Receiver states as follows:

**I. RELEVANT FACTS**

**A. Creation of the Receivership Estate**

1. On July 26, 2016, the Securities and Exchange Commission filed a *Complaint* [Docket No. 2] against Traffic Monsoon, LLC and Scoville (the “Defendants”), thus commencing the above-captioned case.

2. That same day, the Court entered a *Temporary Restraining Order and Order Freezing Assets* [Docket No. 8], freezing the Defendants’ assets.

3. On July 27, 2016, the Court also entered an *Order* [Docket No. 11] placing all of the Defendants’ assets into a “Receivership Estate” and appointing the Receiver to take control of the Defendants’ assets.

4. On March 30, 2017, the Court issued a *Preliminary Injunction* [Docket No. 80] in this case, thereby taking “exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of Traffic Monsoon, LLC and of Charles D. Scoville that were obtained directly or indirectly from Traffic Monsoon, LLC (Defendants’ Assets).” *Id.* at 2.

5. The Preliminary Injunction states the “Defendants’ Assets are frozen until further order of this Court” and the Defendants “are hereby restrained and enjoined from directly or indirectly transferring, . . . selling, . . . liquidating or otherwise disposing of . . . such assets.” *Id.*

6. Further, the Preliminary Injunction also expressly preserves the Court’s “jurisdiction over this action for the purposes of implementing and carrying out all terms of all orders and decrees that may be entered herein and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.” *Id.* at 3.

7. On March 28, 2017, the Court issued its *Amended Order Appointing Receiver* [Docket No. 81], later revised in the *Second Amended Order Appointing Receiver* [Docket No. 120]<sup>1</sup> (the “Receivership Order”).

8. The Receivership Order places the Receiver in charge of the Receivership Estate. Specifically, the Receivership Order states:

- a. The Receiver is appointed “for the purpose of marshaling and preserving all assets of Traffic Monsoon, LLC and all assets of Charles D. Scoville (Scoville) that were obtained directly or indirectly from Traffic Monsoon (Receivership Assets).” *Id.* at ¶ 1.<sup>2</sup>
- b. “The Receiver shall assume control of the Receivership assets. . . .” *Id.* at ¶ 4.
- c. “The Receiver is authorized to take immediate possession of all assets . . . relating to . . . the Receivership Assets.” *Id.* at ¶ 8.

---

<sup>1</sup> Because both the *Amended Order Appointing Receiver* and the *Second Amended Order Appointing Receiver* include the language quoted herein, the Receiver draws no distinction between them for purposes of this Motion.

<sup>2</sup> Citations are to the paragraph numbering of the *Second Amended Order Appointing Receiver*.

d. “The Receivership Defendants . . . having possession of Receivership Assets . . . are hereby directed to deliver the same to the Receiver, her agents and/or employees.” *Id.* at ¶ 9.

9. The Preliminary Injunction and Receivership Order (together, the “Orders”) have been appealed to the Court of Appeals for the Tenth Circuit. *See Notice of Interlocutory Appeal* [Docket No. 85] and *Notice of Interlocutory Appeal* [Docket No. 124]. No stay pending appeal has been entered.

### **B. The Property**

10. Shortly after her appointment, the Receiver requested that Scoville agree to meet with her to discuss the whereabouts of all assets, and he agreed to do so. Scoville represented to the Receiver that he was located in London and, therefore, Scoville and the Receiver agreed to conduct this business by telephone. Declaration ¶ 4.

11. During a telephone call on July 29, 2016, Scoville stated that he owned a flat in Manchester, England (the “Flat”), which he purchased for £290,000 cash in or about July 2015. *Id.* at ¶ 5.

12. The Flat’s address is Apartment 27, N V Building 90, the Quays, Salford, M50 3BB, United Kingdom. A true and correct *Official Copy of Register of Title* that the Receiver obtained shortly after her appointment is attached to the Declaration as Exhibit A. *Id.* at ¶ 6.

13. During the phone call, Scoville further stated that he had to rent a parking space (the “Parking Space”) associated with the Flat (the Flat and the Parking Space are hereinafter the “Property”). Based on the information set forth below, the Receiver believes Scoville actually owned the Parking Space. *Id.* at ¶ 7.

14. Not long after her appointment, the Receiver secured keys for the Property from Scoville's spouse (who, at the time this case was commenced, was living in London), and attempted to file a notice of receivership against the Property with Her Majesty's Land Registry<sup>3</sup> (the "Land Registry") where the Property is located. The Land Registry, however, refused to record the Receiver's notice on the basis that the Receivership Order is not directly enforceable in the United Kingdom. Accordingly, the Receiver determined that she could not change the locks on the Property or give notice of an interest in the Property, but would have to monitor the Property from time to time, which she has been doing through her firm's London office. The Receiver was not overly concerned about the Property being transferred because Scoville was the only person who could transfer it and he was enjoined by this Court from doing so. *Id.* at ¶ 8.

15. Since the creation of the Receivership Estate, the Receiver has been paying all taxes and fees associated with the Property. In fact, in August 2017, Scoville's counsel sent a tax notice to the Receiver and indicated that Scoville was anxious to know that these taxes were being paid by the receivership estate. *Id.* at ¶ 9.

16. The Property is property of the Receivership Estate. It was purchased by Scoville in 2015 with money he obtained from Traffic Monsoon. *Id.* at ¶ 10.

17. Scoville has never informed the Receiver or the Court that he contests the fact that the Property belongs to the Receivership Estate and is subject to the Preliminary Injunction and Receivership Order. *Id.* at ¶ 11.

---

<sup>3</sup> HM Land Registry is the British government department which "register[s] the ownership of land and property in England and Wales." HM Registry: About Us, *Gov.uk* (March 13, 2018, 2:54 PM), <https://www.gov.uk/government/organisations/land-registry/about#who-we-are>.

18. Recently, the Receiver's office was contacted by Kelie Escobar. Ms. Escobar and Scoville have a son, and she requested her son's passport. Ms. Escobar stated that she had been told by Scoville that her son's passport had been seized, and she was concerned about Scoville obtaining possession of it and taking their son out of the country. *Id.* at ¶ 12.

**C. Scoville Sells the Property of the Receivership Estate in Violation of Court Orders**

19. The Receiver has recently learned that Scoville sold the Property in violation of the Preliminary Injunction and the Receivership Order. *Id.* at ¶ 13.

20. The Receiver has obtained the following documents from the Land Registry:

- a. A "Transfer of whole of registered title(s)" report relating to the Property (the "Transfer Report"), a true and correct copy of which is attached to the Declaration as Exhibit B;
- b. An "Official copy of register of title" for the Flat (the "Flat Title"), a true and correct copy of which is attached to the Declaration as Exhibit C; and
- c. An "Official copy of register of title" for the Parking Space, (the "Parking Space Title"), a true and correct copy of which is attached to the Declaration as Exhibit D.

*Id.* at ¶ 16.

21. According to the Transfer Report, Scoville sold the Property on November 28, 2017, for £280,000, to John Jarvis Hitchen. *Id.* at Ex. B (Transfer Report).

22. Both the Flat Title and the Parking Space Title show Mr. Hitchen as the title owner as of January 2, 2018. Declaration Ex. C (Flat Title) and Ex. D (Parking Space Title).

23. By selling the Property, Scoville has violated the Preliminary Injunction and the Receivership Order. Declaration ¶ 15.

24. Pursuant to the Receivership Order, the proceeds (“Proceeds”) of the sale of the Property are assets of the receivership estate which must be turned over to the Receiver. *Id.* at ¶ 16.

25. As soon as the Receiver learned of the sale of the Property, on March 12, 2018, the Receiver, through her counsel, demanded that Scoville immediately provide an accounting of the sale and the Proceeds, and to turnover the Proceeds. A copy of this demand is attached as Exhibit E to the Declaration. *Id.* at ¶ 17 and Ex. E.

26. Having received no response to her March 12th email, on March 14, 2018, the Receiver called Scoville’s counsel and orally informed him that Scoville had sold the Property. After this call, the Receiver sent counsel another demand email, which is also included in Exhibit E to the Declaration. Declaration ¶ 19 and Ex. E.

27. Scoville has not responded to the Receiver’s demands to date. Declaration ¶ 19.

## **II. ARGUMENT**

The Receiver respectfully submits that the Court should enter the proposed *Order to Show Cause* compelling Scoville to appear before this Court and establish why he should not be held in civil contempt. There is sufficient cause to do so based on the facts set forth in the Receiver’s Declaration summarized herein, and the applicable law outlined below.

### **A. The Court Should Find Scoville in Civil Contempt for Violating the Court’s Orders**

Because Scoville directly violated the Preliminary Injunction and Receivership Order by selling the Property, he is in civil contempt of this Court. It is a “basic proposition” of United

States law “that all orders and judgments of courts must be complied with promptly.” *Maness v. Meyers*, 419 U.S. 449, 458 (1975). “Courts have inherent power to enforce compliance with their lawful orders through civil contempt.” *Shillitani v. United States*, 384 U.S. 364, 370 (1966); *see also SEC v. Merrill Scott & Assocs., Ltd.*, 2011 U.S. Dist. LEXIS 134010, at \*29 (D. Utah Nov. 21, 2011) (“Under federal law, the court has inherent power to coerce compliance with its orders . . . and vindicate its authority in the face of contumacious behavior.”); *SEC v. Bliss*, 2015 U.S. Dist. LEXIS 107456, at \*17 (D. Utah Aug. 14, 2015) (“It is well established that federal courts have the power to punish contemnors.”).

To establish civil contempt, the moving party must prove, “by clear and convincing evidence, [1] that a valid court order existed, [2] that the defendants had knowledge of the order, and [3] that the defendants disobeyed the order.” *FTC v. Kuykendall*, 371 F.3d 745, 756-57 (10th Cir. 20014); *Reliance Ins. Co. v. Mast Constr. Co.*, 159 F.3d 1311, 1315 (10th Cir. 1998). “[C]ivil contempt does not depend on the state of mind or on the presence of good faith on the defendant's part, i.e., ‘intent’ is not an element.” *SEC v. Merrill Scott & Assocs., Ltd.*, 2011 U.S. Dist. LEXIS 134010, at \*32; *see also McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949) (stating that since civil contempt is “a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance . . . it matters not with what intent the defendant did the prohibited act.”); *Donovan v. Mazzola*, 716 F.2d 1226, 1240 (9th Cir. 1983) (holding that “good faith” is no defense).

Here, the standards for civil contempt are clearly met. First, the Preliminary Injunction and the Receivership Order are valid and binding Orders of this Court. Second, there is no question Scoville had knowledge of the Orders; indeed, Scoville is currently appealing the



Orders to the Tenth Circuit. Finally, as set forth in Part I. above, Scoville blatantly disobeyed the Orders by selling the Property with no notice to the Receiver and the Court. Accordingly, the Court should find Scoville in civil contempt of the Court's Orders.

**B. Upon a Finding of Civil Contempt, Appropriate Sanctions Should Be Imposed.**

Upon a finding of civil contempt, the Court may impose a fine “to coerce the defendant into compliance with the court’s order, and to compensate the complainant for losses sustained.” *United States v. United Mine Workers*, 330 U.S. 258, 303–04 (1947); *see also Int’l Union, UMW v. Bagwell*, 512 U.S. 821, 827–28 (1994); *In re Skinner*, 917 F.2d 444, 447 n.2 (10th Cir. 1990). Once civil contempt has been established, to receive compensatory damages the plaintiff “need only prove damages by a preponderance of the evidence.” *Reliance Ins. Co. v. Mast Constr. Co.*, 159 F.3d 1311, 1318 (10th Cir. 1998). The Court may also, in its discretion, impose coercive sanctions which are “designed to bring the contemnor into compliance with the court’s order.” *SEC v. Bliss*, 2015 U.S. Dist. LEXIS 107456, at \*26. The Court may properly incarcerate a contemnor for civil contempt as a coercive remedy to “obtain [a contemnor’s] compliance with the court’s orders going forward.” *Id.* at \*27.

Although the Receiver attempted to recover the Proceeds without Court involvement, Scoville did not respond to the Receiver’s demands. Accordingly, the Receiver filed the Turnover Motion seeking an order requiring Scoville to provide an accounting of the Proceeds and to turn them over. In conjunction with the Turnover Motion, the Receiver is requesting by this Motion that Scoville be ordered to appear before this Court and explain why he is not in contempt. Based on what is known at this time, the Receiver is requesting turnover of the Proceeds and any compensatory remedies such as fines or sanctions which the Court deems

appropriate, including reimbursement of the Receivership Estate's expenses related to this Motion and the Turnover Motion. In addition, if appropriate, the Receiver requests that Scoville be imprisoned to compel his compliance with the Court's Orders.

### **CONCLUSION**

For the reasons set for above, the Receiver respectfully requests that the Court enter the *Order to Show Cause* attached hereto as **Exhibit 1** ordering Scoville to appear before this Court and establish why he should not be held in contempt for violating the Court's Orders. Upon a finding of contempt, the Receiver also asks that the Court grant the Turnover Motion and require Scoville to provide a full accounting of the Proceeds and turn them over to the Receiver, and order any other appropriate relief, including fines or sanctions, and possibly, imprisonment to compel compliance with the Orders.

DATED this 16th day of March, 2018.

**DORSEY & WHITNEY LLP**

/s/ Michael F. Thomson

Peggy Hunt

Michael F. Thomson

John J. Wiest

*Attorneys for Receiver, Peggy Hunt*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of March, 2018, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all counsel of record in this case.

I further certify that on this 16th day of March, 2018, I served the foregoing via email on the addresses set forth below:

D. Loren Washburn  
[lwashburn@smithcorrell.com](mailto:lwashburn@smithcorrell.com)

/s/ John J. Wiest

# Exhibit 1

*Prepared and submitted by:*

Peggy Hunt (Utah State Bar No. 6060)  
Michael F. Thomson (Utah State Bar No. 9707)  
John J. Wiest (Utah State Bar No. 15767)  
**DORSEY & WHITNEY LLP**  
111 South Main Street, 21st Floor  
Salt Lake City, UT 84111-2176  
Telephone: (801) 933-7360  
Facsimile: (801) 933-7373  
Email: [hunt.peggy@dorsey.com](mailto:hunt.peggy@dorsey.com)  
[thomson.michael@dorsey.com](mailto:thomson.michael@dorsey.com)  
[wiest.john@dorsey.com](mailto:wiest.john@dorsey.com)

*Attorneys for Court-Appointed Receiver Peggy Hunt*

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff.

v.

TRAFFIC MONSOON, LLC, a Utah Limited  
Liability Company, and CHARLES DAVID  
SCOVILLE, an individual,

Defendants.

**ORDER TO SHOW CAUSE WHY  
CHARLES D. SCOVILLE SHOULD NOT  
BE HELD IN CONTEMPT**

2:16-cv-00832-JNP

The Honorable Jill N. Parrish

---

The matter before the court is the *Receiver's Ex Parte Motion Seeking an Order to Show Cause Why Charles D. Scoville Should Not Be Held in Contempt* (the "Motion"). The Court has reviewed the Motion, the *Declaration of Peggy Hunt, Receiver* in support of the Motion, the applicable law, and the record in this case. Based thereon and for good cause shown,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED**; and

2. Defendant Charles D. Scoville is **ORDERED** to appear before the Court at the U.S. Courthouse, District of Utah, 351 S. West Temple, Salt Lake City, UT 84101, Salt Lake City Utah, Courtroom 8.200, on \_\_\_\_\_, 2018 at \_\_\_\_\_ to show cause why he should not be held in contempt of court for violating the Court's *Preliminary Injunction* [Docket No. 80] and *Amended Order Appointing Receiver* [Docket No. 81], later revised in the *Second Amended Order Appointing Receiver* [Docket No. 120].

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

---

The Honorable Jill N. Parrish  
United States District Judge