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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

TOTAL WEALTH MANAGEMENT,
INC., et al.,

Defendants.

Case No.: 15cv226-BAS (DHB)

**ORDER SANCTIONING
ATTORNEY VINCENT J. BROWN;
AND SCHEDULING TELEPHONIC
STATUS CONFERENCE**

On October 13, 2015, the Court held an Order to Show Cause Hearing regarding whether Attorney Vincent J. Brown, counsel for Defendant Jacob Keith Cooper, should be sanctioned for his failures to appear at the August 28, 2015 Case Management Conference, the September 8, 2015 Case Management Conference, the September 10, 2015 Show Cause Hearing, and the October 13, 2015 Show Cause Hearing. For the reasons set forth below, the Court finds Mr. Brown should be personally sanctioned for his repeated failures to respond to Court orders and appear at scheduled hearings.

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1 **I. PROCEDURAL HISTORY**

2 On July 23, 2015, the Court held a telephonic Status Conference in this case. Mr.
3 Brown appeared on behalf of Defendant Cooper. (ECF No. 41.) On August 28, 2015, the
4 Court held a telephonic Case Management Conference. However, Mr. Brown did not
5 appear for the conference. (ECF No. 45.) The Court attempted to reach Mr. Brown at the
6 number listed on the docket for his office, but was unsuccessful. Counsel for Plaintiff
7 speculated that Mr. Brown may have had a medical issue that caused his failure to appear.
8 Therefore, the Court continued the Case Management Conference to September 8, 2015,
9 and issued an Order to Show Cause (“OSC”) regarding Mr. Brown’s non-appearance. The
10 Court also directed Mr. Brown to file a written response to the OSC by September 4, 2015.
11 (ECF Nos. 46, 47.)

12 On September 8, 2015, Mr. Brown failed to appear for the rescheduled telephonic
13 Case Management Conference. (ECF No. 48.) The Court again attempted to reach Mr.
14 Brown by telephone, to no avail. On September 10, 2015, the Court held a Show Cause
15 Hearing, and Mr. Brown did not appear. (ECF No. 50.) Mr. Brown also did not respond
16 in writing to the OSC as ordered by the Court.

17 On October 5, 2015, the Court set a further Show Cause Hearing for October 13,
18 2015. (ECF No. 52.) The Court invited Mr. Brown to respond to the OSC in writing, if he
19 so desired. Mr. Brown did not respond in writing, and did not appear at the hearing on
20 October 13, 2015. (ECF No. 55.)

21 The Court notes that it has attempted to reach Mr. Brown by telephone on several
22 occasions, and has been unsuccessful. The Court has not been able to leave Mr. Brown a
23 voicemail message, as his office number will not accept messages.

24 **II. DISCUSSION**

25 If a party’s attorney fails to appear at a scheduling or other pretrial conference, the
26 Court has discretion to impose sanctions. Fed. R. Civ. P. 16(f); CivLR83.1; *Ayers v. City*
27 *of Richmond*, 895 F.2d 1267, 1270 (9th Cir. 1990). Monetary sanctions may be personally
28 imposed on counsel for such failures. *Miranda v. Southern Pacific Transportation Co.*,

1 710 F.2d 516, 521 (9th Cir. 1983).

2 To date, Mr. Brown has repeatedly disregarded this Court's orders, failed to appear
3 at scheduled hearings, and has not proffered any excuse for his lack of participation in this
4 case. Indeed, Mr. Brown has failed to respond in any way to the Orders to Show Cause
5 issued on August 28, 2015 and October 5, 2015. Because concerns were initially expressed
6 that a medical condition may have been the cause for Mr. Brown's absences, the Court set
7 this matter for a second Show Cause Hearing, and has waited patiently for any response
8 from Mr. Brown. However, at this point, it appears there is no justification for Mr. Brown's
9 failures to appear. Therefore, the Court finds monetary sanctions are warranted. The Court
10 determines that an appropriate sanction is a fine in the amount of \$500.00, payable to the
11 Court for deposit in the nonappropriated fund of the Court. The fine shall be paid from
12 Mr. Brown's personal funds.

13 **III. CONCLUSION**

14 Based on the foregoing, IT IS HEREBY ORDERED that:

15 1. Attorney Vincent J. Brown shall personally pay a sanction of \$500.00 for his
16 failures to appear in this action. The sanction shall be paid from Mr. Brown's personal
17 funds no later than **December 7, 2015** through a check payable to the "Clerk, U.S. District
18 Court." The case number of this action and the word "Sanction" shall be noted on the
19 check.

20 2. A telephonic Status Conference, with all parties, shall be held on **November**
21 **23, 2013** at **9:30 a.m.** before Judge Bartick. The Court orders Defendant Jacob Keith
22 Cooper to appear by telephone at the conference. Defendant Cooper is advised that if he
23 believes Mr. Brown will be unavailable to participate in the conference, he has the option
24 to have another attorney appear at the status conference on his behalf. The parties shall
25 use the Court's conferencing system:

26 Conference number: (888) 684-8852

27 Access code: 2236596

28 Participant security code: 0226

1 3. The Clerk of Court is directed to serve a copy of this order on Defendant Jacob
2 Keith Cooper at the following address:

3 Jacob Keith Cooper
4 370 E. Silver Hawk Ct.
5 Washington UT, 84780

6 IT IS SO ORDERED.

7 Dated: November 6, 2015



8 Hon. David H. Bartick
9 United States Magistrate Judge

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