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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 RRW LEGACY MANAGEMENT
GROUP, INC., et al.,

11 Plaintiffs,

12 v.

13 CAMPBELL WALKER,

14 Defendant.
15

CASE NO. C14-326 MJP

ORDER ON MOTIONS FOR
SANCTION AND FOR BOND

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17 The above-entitled Court, having received and reviewed:

- 18 1. Plaintiff Campbell Investment Company's Motion for Sanctions and for Bond
19 (Dkt. No. 245),
20 2. Defendant's Limited Response to Motion for Sanctions and for Bond (Dkt. No.
21 247),
22 3. Plaintiff Campbell Investment Company's Reply in Support of Motion for
23 Sanctions and for Bond (Dkt. No. 248),
24

1 and all attachments, exhibits, declarations and other relevant portions of the record, rules as
2 follows:

3 IT IS ORDERED that Plaintiff's motion that Defendant Campbell Walker be held in
4 contempt is GRANTED; as a sanction for his contempt, Defendant is hereby assessed a penalty
5 of \$1000 per day until he responds to Plaintiff's post-judgment discovery and appears for a post-
6 judgment deposition/financial examination.

7 IT IS FURTHER ORDERED that Plaintiff's motion for award of its fees and costs
8 incurred in enforcing its judgment is GRANTED; Plaintiff shall submit its request for reasonable
9 costs and attorney fees within 14 days of the entry of this order.

10 IT IS FURTHER ORDERED that Plaintiff's motion to require Defendant to post a bond
11 on appeal is DENIED.

12 Discussion

13 Following a bench trial, Defendant Campbell Walker was adjudged liable for breaches of
14 fiduciary duty. In January 2016, the Court awarded Plaintiff Campbell Investment Company
15 ("CIC") damages in the amount of \$6,271,645.68; in September 2016, the Court added
16 \$580,776.94 in attorneys' fees and taxable costs. (Dkt. Nos. 223, 228.) On September 26, 2016,
17 CIC served post-judgment interrogatories and requests for production to Defendant and noted his
18 deposition as part of its effort to collect on the judgment. (Dkt. No. 246, Declaration of Eaton, ¶
19 2.) Defendant failed to respond to the discovery requests or appear at his deposition. (Id. at ¶ 4.)

20 In response, CIC filed a Motion to Compel and/or for Sanctions (Dkt. No. 233) and this
21 Court granted the motion, ordering Defendant to pay the reasonable costs and fees associated
22 with CIC's filing of the motion. (Dkt. No. 240.) CIC re-noted Defendant's deposition;
23 Defendant's counsel confirmed that the Court's order and the notice of deposition were
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1 transmitted to Defendant. (Decl. of Eaton, Exs. A, B.) The day before the deposition was noted,
2 CIC's counsel received an email from Defendant himself advising he would "not be able to
3 attend the deposition" (Id., Ex. C), confirming that he had received the notice transmitted by his
4 counsel.

5 Fed.R.Civ.P. 37(d)(3) fees and costs

6 CIC makes a number of requests in response to Defendant's refusal to participate in the
7 orderly and legitimate process of finalizing the judgment of a federal court. Plaintiff has moved
8 this Court to order that Defendant pay its reasonable attorneys' fees and costs in bringing this
9 motion. Fed.R.Civ.P. 37(d)(3) mandates the court to "require the party failing to act... to pay the
10 reasonable expenses, including attorneys' fees, caused by the failure, unless the failure was
11 substantially justified." Lacking any evidence of justification, the Court will order that
12 Defendant be assessed the reasonable fees and costs associated with prosecuting this motion.

13 Contempt

14 CIC has also requested that the Court hold Defendant in contempt for his failure to
15 accede to this Court's direction that he participate in post-judgment discovery. The Court
16 ... has the inherent power to hold a party in civil contempt in order to enforce compliance
17 with an order of the court or to compensate for losses of damages.

18 Powell v. Ward, 643 F.2d 924, 931 (2nd Cir. 1981). Three elements must be satisfied as a
19 prelude to a finding of contempt: (1) the order must be "clear and unambiguous," (2) the proof of
20 non-compliance must be "clear and convincing," and (3) the party against whom the contempt
21 finding is sought must not have "been reasonably diligent and energetic in attempting to
22 accomplish what was ordered." Id.

23 The Court has no difficulty finding that all three conditions are met here. The order
24 directing Defendant to furnish discovery responses by a date certain and appear at a post-

1 judgment examination could not have been more clear. (*See* Dkt. No. 240, Order at 5.) There is
2 no reason to question CIC’s assertion that Defendant’s non-compliance has been absolute, and
3 no evidence that Defendant has expended the slightest effort to accomplish what this Court
4 ordered him to do.

5 Having found that the conditions for a finding of contempt have been satisfied, the Court
6 turns to the issue of an appropriate remedy. As the Supreme Court has explained,

7 [j]udicial sanctions in civil contempt proceedings may, in a proper case, be employed for
8 either or both of two purposes: to coerce the defendant into compliance with the court’s
order, and to compensate the complainant for losses sustained.

9 United States v. United Mine Workers, 330 U.S. 258, 303-04 (1947). The sanction the Court
10 intends to impose on Defendant is intended to accomplish the first purpose: compliance with the
11 court’s order. Defendant will be assessed \$1000 per day from the date of this order until he has
12 (1) provided responses to the post-judgment discovery requests propounded by CIC and (2)
13 appeared for and satisfactorily concluded a post-judgment deposition/examination. The
14 contempt sanctions are payable into the registry of the Clerk of the Court of this district until
15 those conditions are satisfied.

16 Appeal bond

17 Finally, CIC has moved this Court for the imposition of a bond on appeal. Absent a
18 formal request for a stay of judgment from Defendant, Plaintiff recognizes that a supersedeas
19 bond pursuant to Fed.R.Civ.P. 62(d) – which would require the posting of the entire amount of
20 the judgment – is not appropriate. Nevertheless, it attempts to convince the Court it is entitled to
21 a “quasi-supersedeas bond” accomplished through the mechanism of a stay pursuant to
22 Fed.R.Civ.P. 37(b)(2)(A)(iv) followed by an order to post a Fed.R.Civ.P. 62(d) bond. It is a
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1 Defendant will be assessed \$1000 per day from the date of this order until he (1) provides
2 responses to the post-judgment discovery requests propounded by CIC and (2) appears for and
3 satisfactorily concludes a post-judgment deposition/examination.

4 Plaintiff is not entitled to a bond on appeal in any amount and that portion of its motion is
5 denied.

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7 The clerk is ordered to provide copies of this order to all counsel.

8 Dated April 6, 2017.

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11 Marsha J. Pechman
United States District Judge