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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

EMPYREAL ENTERPRISES, LLC,
d/b/a EMPYREAL LOGISTICS,

Plaintiff,

vs.

The United States of America; the U.S.
Department of Justice; Attorney General
MERRICK GARLAND, in his official
capacity; the Federal Bureau of
Investigation; CHRISTOPHER A.
WRAY, Director of the Federal Bureau
of Investigation, in his official capacity;
KRISTI KOONS JOHNSON, Assistant
Director of the Federal Bureau of

Case No.: 5-22-cv-94

**DECLARATION OF DEIRDRA
O’GORMAN IN SUPPORT OF
PLAINTIFF’S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION**

Judge:

Complaint Filed: 1/14/22

Investigation overseeing the FBI's Los Angeles Field Office, in her official capacity; the Drug Enforcement Administration; ANNE MILGRAM, Administrator of the Drug Enforcement Administration, in her official capacity; SHANNON D. DICUS, San Bernardino County Sheriff-Coroner, in his official capacity as the head of the San Bernardino County Sheriff's Office,

Defendants.

I, Deirdra O'Gorman, submit the following declaration in support of Plaintiff's Ex Parte Application for Temporary Restraining Order and Order to Show Cause.

1. I am a citizen of the United States of America and a resident of the state of Colorado. I am over eighteen years of age and fully competent to make this declaration.

2. I am the President and CEO of Empyreal Enterprises, LLC d/b/a Empyreal Logistics.

3. I have personal knowledge of the following facts and would competently testify to them if called upon to do so.

4. Empyreal Enterprises, LLC, d/b/a Empyreal Logistics ("Empyreal") is a Pennsylvania limited liability company in good standing with the Pennsylvania Bureau of Corporations and Charitable Organizations.

5. Empyreal has over 200 employees in 13 offices.

1 6. I am Empyreal's CEO. I have more than 26 years of experience as a
2 financial services executive and I also run a compliance firm that works with
3 financial institutions to build compliance programs, with adherence to the enhanced
4 due diligence compliance standards required by FinCEN.
5

6 7. Empyreal operates a cash-in-transit (armored vehicle) business in
7 approximately 28 states, including California.
8

9 8. Unlike traditional armored-vehicle companies, Empyreal operates
10 discreetly, using state-of-the-art technology and surveillance systems in its vehicle
11 fleet.
12

13 9. Empyreal's business model is unique as it relies on a multi-faceted
14 approach that utilizes technology-based security solutions along with traditional
15 approaches to armored transport.
16

17 10. Empyreal's clients include both financial institutions and the state-legal
18 cannabis businesses with which those institutions do business.
19

20 11. Empyreal serves financial institutions that work with state-legal
21 medical cannabis businesses in numerous states, including California, offering
22 secure cash collection and transport, deposit validation at secure vault locations, and
23 standard cash services to businesses and financial institutions.
24

25 12. Empyreal offers these same cash management services to financial
26 institutions that service state-licensed adult-use cannabis businesses.
27
28

1 13. Most of Empyreal's cannabis-industry clients hold medical cannabis
2 licenses.

3
4 14. Empyreal also provides its cash logistics services to clients in other
5 businesses outside of the cannabis industry.

6 15. A significant percentage of Empyreal's cash-in-transit business does
7 not involve the cannabis industry. These clients include restaurants, convenience
8 stores, and other cash-intensive businesses.

9
10 16. With respect to its cannabis-industry clients, Empyreal contracts only
11 with state-legal cannabis businesses that have established banking relationships with
12 financial institutions with anti-money laundering law programs implemented
13 pursuant to the 2014 FinCEN Guidance Regarding Marijuana-related Business
14 ("2014 FinCEN Guidance") and applicable state-issued guidance.
15

16
17 17. Empyreal's financial institution clients must also conduct extensive
18 initial and on-going due diligence of cannabis industry customers to ensure
19 compliance with their Bank Secrecy Act obligations and other regulatory
20 requirements, including filing marijuana-related Suspicious Activity Reports
21 (SARs) to comply with the 2014 FinCEN Guidance.
22

23
24 18. Approximately 20% of Empyreal's business is in California, including
25 business that originates in California but is served by Empyreal branches operating
26 from nearby states.
27
28

1 19. Many of Empyreal's existing clients in California have requested that
2 Empyreal expand services in California in the near future.

3
4 20. Absent interference by Defendants, such as the events described in this
5 lawsuit, Empyreal projects it will double its business in California next year.

6 21. Empyreal's vehicles have been repeatedly targeted by Defendants for
7 stops, searches, and seizures based on the fact that Defendants know that Empyreal
8 vehicles are transporting the cash proceeds of state-legal cannabis businesses.

9
10 22. In the several stops, searches, and seizures described below, not a single
11 traffic citation was issued to an Empyreal driver, and no criminal charges have been
12 brought against Empyreal or any of its employees relating to any of the stops,
13 searches, and seizures.
14

15
16 23. On May 17, 2021, a deputy from the Dickinson County Sheriff's Office
17 stopped and searched an Empyreal vehicle driven by an Empyreal driver, demanding
18 (and receiving) access to the vehicle without any basis as well as Empyreal's route
19 manifest for the next day's pickup of cash proceeds from state-licensed medical
20 cannabis dispensaries in Kansas City, Missouri.
21

22 24. The next day, on May 18, 2021, deputies from the Dickinson County
23 Sheriff's Office in Dickinson County, Kansas stopped, searched, and seized
24 approximately \$165,620 from an Empyreal vehicle ("the May 18 seizure") on I-70
25 without a warrant, working in conjunction with a DEA task force.
26
27
28

1 25. The cash proceeds being transported by Empyreal's vehicle during the
2 May 18 seizure were entirely from state-licensed medical cannabis dispensaries
3 operating lawfully under Missouri law in Kansas City, Missouri, and the proceeds
4 were being transported to legitimate financial institutions.
5

6 26. On September 3, 2021, the United States of America filed a civil
7 forfeiture complaint in the United States District Court for the District of Kansas
8 seeking civil forfeiture of the cash seized in the May 18 seizure. DEA Special Agent
9 Bryson Wheeler was the affiant for the affidavit accompanying that forfeiture
10 complaint. According to that complaint, the DEA conducted surveillance of the
11 Empyreal vehicle as it visited state-legal medical cannabis dispensaries in Kansas
12 City, Missouri to pick up the currency prior to the May 18 seizure.
13
14
15

16 27. Three times in the past eight weeks, the San Bernardino County
17 Sheriff's Department in California has stopped, searched, and seized the contents of
18 Empyreal vehicles as their drivers lawfully conducted Empyreal business.
19

20 28. Based on information provided to me, I understand that the San
21 Bernardino County Sheriff's Department is working in coordination with one or
22 more of the Federal Defendants to orchestrate these ongoing stops, searches, and
23 seizures.
24

25 29. On November 16, 2021, San Bernardino County Sheriff's Department
26 deputies stopped and seized approximately \$750,000 in legal currency from one of
27 Empyreal's vehicles, seized the vehicle itself, and seized the driver's business and
28

1 personal cellphones (the “November 16 seizure”). In the process, Defendants caused
2 significant, unnecessary damage to the vehicle and the technology therein. The stop,
3 search, and seizure took more than four hours.
4

5 30. The cash proceeds being transported by Empyreal’s vehicle during the
6 November 16 seizure were entirely from state-licensed cannabis businesses in good
7 standing, operating lawfully under California law, and the proceeds were being
8 transported to legitimate financial institutions.
9

10 31. Three of the four cannabis businesses whose cash proceeds were seized
11 during the November 16 seizure hold California medical cannabis licenses.
12

13 32. On December 9, 2021, San Bernardino County Sheriff’s Department
14 deputies stopped and seized approximately \$350,000 in legal currency from one of
15 Empyreal’s vehicles (the “December 9 seizure”).
16

17 33. The cash proceeds being transported by Empyreal’s vehicle during the
18 December 9 seizure were entirely from state-licensed cannabis businesses operating
19 lawfully under California law, and the proceeds were being transported to legitimate
20 financial institutions.
21

22 34. All four of the cannabis businesses whose cash proceeds were seized
23 during the December 9 seizure hold California medical cannabis licenses.
24

25 35. In the course of the December 9 seizure, the San Bernardino Sheriff’s
26 deputies covered up or attempted to cover up the cameras on the exterior and interior
27
28

1 of the Empyrean vehicle but failed to disable the vehicle's audio recording
2 equipment.

3
4 36. In the video and audio recording of the December 9 seizure, the
5 Sheriff's deputies can be heard to make several statements indicating that any
6 purported traffic violation bases for the stop (for which no citations were issued)
7 were pretextual, and that the Sheriff's deputies had planned the stop, search, and
8 seizure of the vehicle and its cash contents in advance (as also indicated by the fact
9 that they already had a drug-sniffing dog with them at the time of the stop). Those
10 statements include:
11
12

- 13 i. Alleging that the dog alerted on the vehicle, even though video
14 footage from the vehicle shows that the dog did not alert on the
15 vehicle and was barely interested in the vehicle.
16
17 ii. Stating that "If I stop you, I have the right to open the safe" in the
18 vehicle.
19
20 iii. Stating that "I do have the right to take the money" because it was
21 connected to "drugs," without indicating any basis to believe that
22 the money was connected to anything other than state-legal cannabis
23 sales.
24

25 37. In the video and audio recording of the December 9 seizure, the
26 Sheriff's deputies can be heard to make several statements indicating that they were
27 motivated by revenue generation, including:
28

1 i. Upon seeing the physical amount of cash in the vehicle, observing
2 that “this is, uh, more small”—presumably in relation to the amount
3 they seized in the November 16 seizure.

4
5 ii. After they finished counting the cash, one of the deputies said
6 “That’s it?” and chuckled. He then said: “You set the bar too high.”
7 When another deputy remarked that he thought they would get “a
8 million or two,” the first deputy responded “At least we got over a
9 million”—presumably referring to the combined total of the
10 November 16 and December 9 seizures, which totaled
11 approximately \$1.1 million.

12
13
14 iii. After they finished counting the cash, one of the deputies remarked
15 that there were “pretty small amounts [of cash] this time, huh?”—
16 presumably in relation to the amount they seized in the November
17 16 seizure.

18
19
20 38. Based on information provided to me by the Empyreal driver, whom I
21 employ and supervise, I understand that some of the same Sheriff’s deputies
22 conducted the December 9 stop, search, and seizure and the November 16 stop,
23 search, and seizure.

24
25 39. Based on information provided to me, I understand that the
26 approximately \$1,050,000 in cash seized from Empyreal’s vehicles in the two
27 seizures by San Bernardino County Sheriff’s Department has been transferred to one
28

1 or more of the Federal Defendants and remains in the possession of one or more of
2 the Federal Defendants.

3
4 40. Based on information provided to me, I understand that one or more of
5 the Federal Defendants will be pursuing civil forfeiture of the currency seized in the
6 November 16 seizure and the December 9 seizure.

7
8 41. Based on information provided to me and based on what I have
9 observed in the video and audio of the seizures, the Defendants do not appear to take
10 account of whether the cash proceeds they seized were from state-licensed medical
11 cannabis dispensaries operating lawfully under the laws of the state in which they
12 are located.

13
14 42. Based on information provided to me and based on what I have
15 observed in the video and audio of the seizures, the Defendants do not appear to take
16 account of whether the cash proceeds they seized were from medical cannabis, and
17 Defendants took no measures to verify whether the proceeds were from medical
18 cannabis or other state-legal, adult-use cannabis sales.

19
20 43. Based on information provided to me and based on what I have
21 observed in the video and audio of the seizures, the Defendants often do not take
22 account of whether the cash proceeds they seized were from cannabis businesses or
23 other types of businesses.
24
25
26
27
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1 44. On January 6, 2022, one or more San Bernardino County Sheriff's
2 Department deputies stopped and searched an Empyreal vehicle and interrogated the
3 driver.
4

5 45. Although Empyreal had suspended cash logistics operations in San
6 Bernardino County after the December 9 seizure and instructed drivers on cash
7 logistics trips to not to enter San Bernardino County, this Empyreal driver was
8 simply picking up an order of rolled coin boxes from Empyreal's vendor, which
9 happens to be located in San Bernardino County, in order to replenish its rolled coin
10 supply.
11

12 46. The Empyreal vehicle was not transporting any cannabis proceeds on
13 January 6 but was transporting rolled coins from a non-cannabis business.
14

15 47. Based on information provided to me by the Empyreal driver, whom I
16 employ and supervise, Sheriff's deputies declined to seize the coins once they
17 realized they were from a non-cannabis business.
18

19 48. Based on information provided to me by the Empyreal driver, whom I
20 employ and supervise, when the Empyreal driver asked the Sheriff's deputy on
21 January 6 why Empyreal vehicles were being stopped so frequently, the deputy told
22 him it was "political" but declined to elaborate further.
23

24 49. As a result of Defendants ongoing conduct, including the stops,
25 searches, and seizures of Empyreal's personnel, vehicles, safes, cellphones, and
26
27
28

1 money, Empyreal is suffering substantial and ongoing harms to its business and its
2 business reputation. Those harms include:

- 3
4 i. Each seizure of Empyreal's cash renders it unable to perform a
5 service for which it was contracted, damaging Empyreal's business
6 reputation, client retention, and client recruitment.
- 7
8 ii. Being subject to repeated stops, searches, and seizures by
9 Defendants causes reputational harm and makes Empyreal's clients
10 less likely to engage in business with Empyreal in the future.
- 11
12 iii. Empyreal has lost business opportunities and potential clients
13 because of the May 18 seizure in Kansas. Further, based on my
14 extensive experience in the financial industry and as the CEO of
15 Empyreal and my communications with clients, potential clients,
16 and business partners, we at Empyreal reasonably expect the two
17 California seizures to have a similarly negative effect on its
18 business.
- 19
20
21 iv. Empyreal lost a potential client—the Colorado franchisee of a major
22 fast-food chain—because of concerns the potential client had arising
23 from the May 18 seizure.
- 24
25 v. Due to the May 18 seizure, Empyreal has re-routed its services for
26 medical cannabis dispensaries in Kansas City, Missouri in order to
27 avoid traveling through the State of Kansas, including Dickinson
28

County, at substantial expense. This is particularly inconvenient because Kansas City, Missouri sits on the Kansas border, and is primarily served by I-70, which runs through Kansas, for westbound travel.

vi. Prior to the May 18 seizure, Empyreal had planned to start offering services for non-cannabis clients in three Midwestern states. But I have been provided reliable information that, based on the May 18 seizure, law-enforcement agencies in those states have begun to keep a lookout for Empyreal vehicles to stop, search, and seize their contents. Because of this real risk of harassment and property loss, Empyreal has been unable to start offering services for non-cannabis customers in those three Midwestern states.

vii. Empyreal's competitors have used the May 18 seizure as a selling point for why Empyreal's clients and potential clients should do business with them instead, including in posts on social media websites such as LinkedIn. Attached to this declaration as **Exhibit A** is a true and correct copy of one such LinkedIn post.

viii. Based on my extensive experience in the financial industry and as the CEO of Empyreal, as well as my communications with potential investors and business partners, we at Empyreal are reasonably concerned that potential financial investors or business partners will

1 be reluctant to invest in or enter into business relationships with
2 Empyreal as a result of the reputational harm Empyreal has suffered
3 from the May 18 seizure, and that we anticipate suffering from the
4 two California seizures.
5

6 ix. Being targeted for repeated stops, searches, and seizures by
7 Defendants threatens the viability of Empyreal's entire cash-in-
8 transit business model.
9

10 x. Because of Defendants' actions against Empyreal vehicles in San
11 Bernardino County, Empyreal has been forced to suspend its
12 business operations in San Bernardino County and reroute other
13 Southern California routes to avoid San Bernardino County, at
14 serious and unquantifiable financial loss.
15
16

17 xi. Suspending business operations in San Bernardino County has been
18 particularly costly to Empyreal because Empyreal was building a
19 vault and currency processing facility in San Bernardino County and
20 has had to suspend further construction and planned operations from
21 that facility. Empyreal had already spent approximately \$100,000
22 on renovations to its planned location in San Bernardino County and
23 is incurring expenses of approximately \$21,000 per month in rent
24 and utilities.
25
26
27
28

1 xii. Losing the ability to open and operate the San Bernardino County
2 currency processing facility has impacted Empyreal's operations
3 outside San Bernardino County, because that location was to be
4 Empyreal's currency processing facility serving all of Southern
5 California, a key market for our business, and Empyreal has had to
6 reroute Southern California routes that would have delivered to that
7 facility at considerable expense.

10 xiii. Empyreal's ability to meet the demands of its existing clients to
11 expand its services in California is dependent on both being able to
12 continue operations in San Bernardino County and on being able to
13 serve Southern California from its San Bernardino County currency
14 processing facility.

17 xiv. Empyreal's projected future revenue growth in California is
18 dependent on both being able to continue operations in San
19 Bernardino County and on being able to serve Southern California
20 from its San Bernardino County currency processing facility.

23 xv. If Empyreal continues to have its vehicles stopped, searched, and
24 seized by Defendants in California, Empyreal will have to suspend
25 its business operations in California, at serious and unquantifiable
26 financial loss.

xvi. Suspending business operations in California will be particularly costly to Empyreal, because approximately 20% of Empyreal's business—over \$3.5 million in 2021—originates in California, and Empyreal projects that revenue to more than double in 2022.

xvii. If Empyreal continues to have its vehicles stopped, searched, and seized nationwide by the Federal Defendants, and their task forces and partners in local or state law enforcement agencies, Empyreal will have to cease lawful business operations for financial institutions, and their customers, involved in state-legal medical cannabis and adult-use cannabis operations. Ending these services would severely impact Empyreal's business.

xviii. To protect its business reputation, Empyreal reimbursed its clients the approximately \$165,620 seized during the May 18 seizure, effectively indemnifying its clients out of its own revenue.

xix. To protect its business reputation, Empyreal reimbursed its clients the approximately \$700,000 seized during the November 16 seizure, and the approximately \$350,000 seized during the December 9 seizure, effectively indemnifying its clients out of its own revenue.

xx. Defendants continue to retain all of the money they seized from Empyreal, without any measures to verify the sources of the money.

xxi. Empyreal is forced to expend revenue and resources contesting the attempted civil forfeitures of its seized money.

xxii. Empyreal is forced to expend revenue and resources repairing the damage that Defendants did to its vehicle and security features during the November 16 seizure.

xxiii. Defendants' practice of disabling the cameras on Empyreal's vehicles during these stops, searches, and seizures interferes with Empyreal's property and inhibits Empyreal's ability to gather facts about the incidents to both defend against the forfeiture of the seized property and to pursue vindication of its statutory and constitutional rights.

50. Due to the ongoing nature of Defendants' conduct and the ongoing harm Empyreal is suffering to avoid being further victimized by Defendants' conduct, every day Defendants' conduct continues, Empyreal will continue to suffer immediate and irreparable injury including the injuries I've mentioned above.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of January, 2022, in Englewood, Colorado.

/s/ Deirdra A. O'Gorman
Deirdra O'Gorman

EXHIBIT A

TO DECLARATION OF DEIRDRA O’GORMAN IN SUPPORT OF PLAINTIFF’S
EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION



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Calling out all unarmed, unprotected and really silly pretending transport companies. Either get the right gear and licenses or get out of the game. Good work by the DEA and police on this one. They called this out - what a joke to put people in harms way with no protection??? Armored car companies pay hundreds of thousands in insurance. This firm and others do not. Wonder who will win in that battle??

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Reactions

Exhibit A

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Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
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EMPYREAL ENTERPRISES, LLC,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,
et al.

Defendants.

Case No. 5:22-cv-00094-JWH-SHKx

**SUPPLEMENTAL DECLARATION
OF DAVID BASS IN SUPPORT OF
PLAINTIFF'S RENEWED *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION**

Honorable John W. Holcomb
Complaint Filed: 1/14/22

1 I, David Bass, submit the following supplemental declaration in support of
2 Plaintiff's Application to File Under Seal and Renewed *Ex Parte* Application for
3 Temporary Restraining Order and Order to Show Cause.
4

5 1. I am a citizen of the United States of America and a resident of the state
6 of California. I am over eighteen years of age and fully competent to make this
7 declaration.
8

9 2. I am an attorney licensed in the State of California. My practice
10 includes advising financial institutions and service providers, including cash-in-
11 transit (armored car) companies, regarding anti-money laundering and banking
12 industries such as cannabis and cryptocurrency.
13

14 3. I am a former prosecutor, including a role as Deputy Attorney General
15 at the California Attorney General's Office, where I worked in the Financial Fraud
16 and Special Prosecutions Unit. I have been a Certified Anti-Money Laundering
17 Specialist as certified by the Association of Certified Anti-Money Laundering
18 Specialists. I was also the lead prosecutor for the Attorney General's Northern
19 California Tax Recovery and Crime Enforcement Task Force, which was a state and
20 federal task force. I have presented on issues of digital currencies and cannabis in
21 the past.
22
23
24

25 4. I am also a military veteran who has been deployed on narcotics
26 interdiction missions in parts of South America, and I am familiar with law
27 enforcement actions against the illicit market and legal cannabis industry.
28

1 5. I am counsel for Empyreal Enterprises, LLC d/b/a Empyreal Logistics
2 (“Empyreal”).
3

4 6. I have reviewed the dashcam footage and in-car audio, along with
5 reports from law enforcement, from the Kansas stops that occurred on May 17 and
6 May 18, 2021, which Special Assistant United States Attorney Colin Wood
7 provided to Empyreal’s counsel in Kansas. This footage was not provided to
8 Empyreal until Monday, January 24, 2022, after Empyreal filed its Renewed *Ex*
9 *Parte* Application for Temporary Restraining Order and Order to Show Cause and
10 accompanying memorandum of law.
11
12

13 7. I have personal knowledge of the following facts and would
14 competently testify to them if called upon to do so.
15

16 8. The dashcam footage and in-car audio reveal that neither local nor
17 federal law enforcement possessed probable cause to believe Empyreal was
18 engaged in any of the crimes it accused Empyreal of during the May 17 and May
19 18, 2021 stops.
20

21 9. For instance, at approximately the 6:10 mark of the recording
22 provided by Special AUSA Wood, DEA Agent Bryson Wheeler—the affiant for
23 the affidavit that accompanied the civil forfeiture complaint filed against the cash
24 seized from Empyreal’s vehicle in Kansas— expresses confusion about the
25 business model and confesses: “I don’t think that’s necessarily illegal. It’s just
26 strange as hell. It seems like they’re a bank operating as not a bank.”
27
28

1 10. However, as was explained to Officer Robinson, Empyreal is an
2 armored car company that delivers to financial institutions. Empyreal has never
3 been a chartered bank or credit union, nor has it ever sought such status.
4

5 11. At approximately the 10:45 mark of the recording, Agent Wheeler
6 calls Officer Robison and claims that cannabis proceeds must stay in the state
7 where cannabis is legal and cannot be transported across state lines. This is
8 incorrect. Based on my professional experience, there is no law indicating that
9 proceeds become illegal when they leave a state. For example, gambling is illegal
10 in many states, yet it is not illegal to take gambling proceeds out of Las Vegas and
11 into a neighboring state.
12
13

14 12. At approximately the 13:20 mark of the recording, Agent Wheeler
15 claims that Empyreal's operations are bulk cash smuggling. This is also incorrect.
16 Bulk cash smuggling is defined by federal law under 31 U.S.C. § 5332. It requires
17 an intent to evade a currency reporting requirement, and the transportation of cash
18 into or outside the United States. Even if the Agent meant that Empyreal was
19 simply trying to avoid reporting requirements, this too would be wrong. FinCEN
20 Rule FIN-2013-R001, which was issued July 12, 2013, provides an exception for
21 Currency Transaction Reports under certain circumstances, such as when an
22 armored car service ("ACS" as defined by FinCEN) delivers cash to a financial
23 institution on behalf of the financial institution or the customer. It is the financial
24 institution, not the ACS, that must file the Currency Transaction Report.
25
26
27
28

1 13. Additionally, money laundering would only occur if there was an
2 attempted evasion of reporting requirements (among other statutory elements of the
3 offense). Based on the information that Empyreal has readily shared with law
4 enforcement, law enforcement is able to check the FinCEN database to quickly
5 determine whether each financial institution is abiding by its reporting requirements,
6 such as filing all Currency Transaction Reports. This would include the ability to
7 check whether any financial institution has filed a marijuana suspicious activity
8 report based on suspicions that Empyreal is engaging in unlawful business, is
9 transporting funds derived from illegal activity, or is engaged in any behavior
10 designed to evade reporting regulations.
11

12 14. Accordingly, none of Agent Wheeler's nor Officer Robinson's
13 statements about criminal activity have a foundation in the law.
14

15 15. Yet, at approximately the 31:00 mark of the recording, Officer
16 Robinson communicates Empyreal's itinerary for the next day to Agent Wheeler and
17 states, "I don't know if you want to get in on this and get [the driver's] ass."
18

19 16. Agent Wheeler responds that they should place all of Empyreal's
20 vehicles into a license plate reader and then "smash them into submission."
21

22 17. Based on my experience, I understand Agent Wheeler to be referring to
23 a national license plate reader system (LPR), which uses high-speed cameras and
24 software to enable law enforcement agencies to read the license plates of vehicles
25 on the roadways and alert law enforcement of potential targets. Adding all of
26
27
28

1 Empyreal's vehicles into the LPR would enable law enforcement officers to identify
2 Empyreal vehicles as targets for stops, searches, and seizures regardless of the state
3 they are traveling in or their otherwise full compliance with all traffic laws.
4

5 18. After deciding to place all of Empyreal's vehicles into the LPR, Agent
6 Wheeler notes that Empyreal will fight the seizures, but law enforcement should
7 "crush every one of their cars that they can identify."
8

9 19. Agreeing with Agent Wheeler's plan, around the 36:50 mark of the
10 recording, Officer Robinson states, "We'll start taking them all down at once."
11

12 20. A few months after the May 17 and 18, 2021 stops and seizure in
13 Kansas, I was contacted by Empyreal regarding the November 16, 2021 stop and
14 seizure in San Bernardino County, California.
15

16 21. I have included within this declaration a true and correct copy of the
17 November 16, 2021 warrant and affidavit submitted by the San Bernardino Sheriff's
18 Office as **Exhibit A** to my declaration, with redactions made for purposes of
19 security, data privacy, and confidentiality regarding individual's names and the
20 business operations and security procedures of Empyreal. Empyreal did not receive
21 a full copy of this warrant, including the affidavit, until Tuesday, January 25, 2022,
22 after Empyreal filed its Renewed *Ex Parte* Application for Temporary Restraining
23 Order and Order to Show Cause and accompanying memorandum of law. I have
24 repeatedly requested full copies of this warrant from Detective Juarez of the San
25 Bernardino Sheriff's Department, including in phone calls on November 17, 2021
26
27
28

1 and December 6, 2021. I also repeatedly called the San Bernardino County District
2 Attorney's Office in November and December 2021 regarding obtaining the full
3 copy of this warrant because Detective Juarez told me that was who I should contact
4 to get the warrant and further information on the seizure.
5

6 22. In the Statement of Probable Cause that was submitted by Deputy
7 Franco, it attributes the following statement to a transport supervisor that Deputy
8 Franco spoke with: "Once the currency arrives to the Branch, the currency is
9 deposited into bank accounts belonging to each individual cannabis company and
10 turned into coin-base [sic]."
11

12 23. I have reviewed the audio and video that Empyreal's vehicle recorded
13 of this incident, and this statement is not supported by that contemporaneous
14 recording.
15

16 24. A recording of the video demonstrates that, despite the Deputy's
17 averments in his Statement of Probable Cause, Deputy Franco never in fact
18 mentioned or discussed Coinbase or cryptocurrency while on the phone with
19 Empyreal's representatives.
20

21 25. At one point during the call, the Deputy mentions coins, which is
22 entirely different from Coinbase—a publicly traded business that provides a
23 cryptocurrency exchange platform—asking: "Just so I understand, you receive
24 money from these marijuana companies, and then you exchange it for coins and give
25 it back?"
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1 26. Notably, because Coinbase is simply a financial technology platform
2 for *exchanging* cryptocurrency, it is simply not possible for currency of any kind to
3 be “turned into” Coinbase.
4

5 27. Putting aside the fact that currency cannot be “turned into” Coinbase
6 and the fact that the video does not in fact reflect a discussion of Coinbase or
7 cryptocurrency, based on my experience, using Coinbase to “avoid taxes and/or Law
8 Enforcement detection” through an intermediary like an armored car service would
9 be inefficient and unwise. First, Coinbase has its own anti-money laundering
10 program, cooperates with law enforcement with a valid subpoena, and each account
11 is connected to a separate individual financial account and an immutable ledger.
12 Coinbase also charges fees and, as has been recently shown, the volatility of
13 cryptocurrencies on Coinbase like Bitcoin make it a seriously poor choice as stored
14 value for the moment.
15
16
17

18 28. Deputy Franco also stated in his affidavit that he called the “Bureau” of
19 Cannabis Control and “found out that Empyrean LLC was not listed as a business
20 authorized to conduct marijuana/cannabis business in the State of California.” That
21 is because Empyrean does not have to be “listed”; the Department of Cannabis
22 Control does not regulate armored car services in California. Armored car companies
23 that transport cannabis plants or plant products must get a distributor license, but, as
24 was explained to Deputy Franco during the November 16 stop, Empyrean only
25 transports cash and rolled coins. It never transports cannabis. Therefore, based on
26
27
28

1 my experience, armored-car companies such as Empyreal are in no way regulated
2 by the Department of Cannabis Control or under its jurisdiction.
3

4 Executed this 27th day of January, 2022, in Roseville, California.
5

6 Respectfully submitted,

7 /s/ David C. Bass

8 **KOELLER, NEBEKER, CARLSON &**
9 **HALUCK LLP**

10 David C. Bass (Cal. Bar No. 296380)

11 david.bass@knchlaw.com

12 1478 Stone Point Drive, Suite 435

13 Roseville, CA 95661

14 (916) 724-5700

15 (916) 788-2850 (fax)

16 *Counsel for Plaintiff*
17
18
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EXHIBIT A

TO SUPPLEMENTAL DECLARATION OF DAVID BASS

WSW 21-3675



The Great Seal

**SUPERIOR COURT OF CALIFORNIA
County of San Bernardino**

SEARCH WARRANT
Probable Cause Warrant to Search
(Penal Code Section 1524)

Warrant
No.

Report #: 652100931

SEARCH WARRANT AND AFFIDAVIT

AFFIDAVIT

I, Deputy Jonathan Franco swear under oath that the facts expressed by me in the attached and incorporated **Statement of Probable Cause** are true and that based therein I have probable cause to believe and do believe that the articles, property, and persons described below may be lawfully seized pursuant to Penal Code Section 1524, as indicated below, and is now located at the location(s) set forth below. Wherefore, I request that this Search Warrant be issued.

HOBBS SEALING REQUESTED:

☐ YES ☒ NO

NIGHT SEARCH REQUESTED:

☐ YES ☒ NO

(Signature of Affiant)

SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF SAN BERNARDINO: proof by affidavit, under penalty of perjury, having been made before me by Deputy Jonathan Franco, that there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seized pursuant to Penal Code Section 1524 et seq., as indicated below by "☒"(s), in that:

- ☐ it was stolen or embezzled;
- ☐ it was used as the means of committing a felony;
- ☒ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- ☒ it tends to show that a felony has been committed or that a particular person has committed a felony;
- ☐ it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- ☐ an arrest warrant has been issued for _____ N/A _____;
- ☐ a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

Search Warrant and Affidavit

1 -

Warrant ID: 000073071

VVSW 21-3675

YOU ARE THEREFORE COMMANDED TO SEARCH:

The vehicle further described as: [REDACTED]
[REDACTED] to include all [REDACTED] within the vehicle.

FOR THE FOLLOWING PROPERTY:

1. Any currency, bills, coins, notes and/or any evidence of the illegal transportation of narcotics/marijuana proceeds.
2. Any electronics which could be used in the commission of arranging, completing, managing the illegal transportation of narcotics/marijuana proceeds.
3. Any narcotics and/or marijuana located in the vehicle.

AND TO SEIZE IT IF FOUND and bring it before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to and subscribed before me this 16th day of November, 2021, at _____ a.m./p.m. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

(Signature of Magistrate)

Judge of the Superior Court, Victorville Judicial District

HOBBS SEALING APPROVED: ☐ YES ☐ NO
NIGHT SEARCH APPROVED: ☐ YES ☐ NO

Search Warrant and Affidavit [REDACTED]

2 -

VVSW 21-3675

EXPERTISE OF AFFIANT:

Your affiant, herein after referred to in the first person (i.e., me, myself or I) Jonathan Franco, has been a Deputy Sheriff for the San Bernardino County Sheriff's Department since 2008. I attended the San Bernardino County Sheriff's Academy in San Bernardino where I was given instruction in dealing with all aspects of criminal law. I have received training in the Basic Academy for conducting investigations regarding property crimes, crimes against persons, and narcotics related crimes involving identification, symptomology, manufacturing, and sales of various controlled substances and narcotics.

I am currently assigned to the Narcotics Division where I work the Highway Interdiction Team. I have been assigned to the Narcotics Division since January 2019. As of June 2020, I am a K9 handler assigned to work with my narcotics detection K9 Leo. While on the Highway Interdiction Team I have investigated and participated in investigations involving narcotics/illicit proceed traffickers who commonly conceal narcotics and the proceeds of illegal narcotics sales in vehicles within hidden compartments or other areas inside vehicles.

From October of 2017 to January of 2019, I was assigned to IRNET (Inland Regional Narcotics Enforcement Team). While assigned to IRNET I investigated and participated in several narcotics investigations which resulted in substantial seizures of illegal narcotics and illicit proceeds from the sales of illegal narcotics.

February 2013 to October 2017, I was assigned to work uniform patrol in the city of Chino Hills. While working in the city of Chino Hills, I was assigned to the Multiple Enforcement Team where I investigated and participated in several investigations involving property crimes, crimes against person and illegal narcotics.

Prior to my assignment to Chino Hills, I was assigned to work at the West Valley Detention Center from December 2008 to February of 2013. While at the West Valley Detention Center I was assigned to work housing units and gang classification unit.

In December of 2008, I completed the Sheriff's Basic Academy. While at Sheriff's Academy, I received 23 weeks of training which consisted of Criminal Law, Laws of Arrest, Evidence Collection, and instruction in Custodial training.

I have attended numerous training courses to include: over 50 hours of Gang Investigations / Awareness, 24 hours of Information Systems training, 8 hours Confidential Informants, 16 hour Classification, 60 hours of Interview, Interrogation, and Behavioral Analysis, 16 hours Excited Delirium, over 100 hours of Narcotics / Interdiction Investigation training. I am a member of CNOA (California Narcotics Officer's Association) and have attended over 100 hours of CNOA sponsored training. I am S.M.A.S.H. (San Bernardino Movement Against Street Hoodlums) certified and have participated in S.M.A.S.H. crime suppression enforcements. I am certified by the California State Attorney General's Office in the practical, technical, and legal aspects of court ordered wiretaps. (Penal Code Section 629 et seq.)

Search Warrant and Affidavit

3 -

VVSW 21-3675

STATEMENT OF PROBABLE CAUSE**STATEMENT OF FACTS:**

On November 16, 2021, I was traveling east on CA-58 in the Barstow area and observed a [REDACTED] traveling ahead of me in the #2 lane. I noticed the [REDACTED] was following less than one car length behind a semi-truck while traveling approximately 60MPH in violation of CVC 21703- Following at unsafe distance.

I initiated a traffic stop on the [REDACTED] and contacted the driver and sole occupant of the vehicle, [REDACTED]. While speaking with [REDACTED] he told me he was driving from Fresno for work. I asked [REDACTED] what his occupation was, [REDACTED] told me he works for a company named Empyreal LLC which transports currency for Cannabis companies. I asked [REDACTED] [REDACTED] said no. I asked [REDACTED] if he had any documentation or a manifest for the currency, [REDACTED] said no. [REDACTED] told me he was transporting the money from the Fresno area to his "branch" in Las Vegas, Nevada.

[REDACTED] offered to show me the [REDACTED] and voluntarily opened the doors to show me the [REDACTED] [REDACTED] which he did not have access to. [REDACTED] showed me an app based program on his cellular phone which listed 4 cannabis companies in the Fresno area where he picked up from today. [REDACTED] believes there to be more than \$200,000 total in cannabis proceeds in the [REDACTED].

[REDACTED] described one of the pick up location as a marijuana farm in the Fresno area where they had armed guards standing by while he picked up the currency. [REDACTED] did not have any additional details as to the outcome of the currency once it arrives to the "branch".

[REDACTED] called his transport supervisor, [REDACTED], from his own phone and asked me to speak with him. I asked [REDACTED] a series of questions, the following is a summary of [REDACTED]'s voluntary statement: [REDACTED] assigns the pick up routes for his drivers and is responsible for them. Once the currency arrives to the Branch, the currency is deposited into bank accounts belonging to each individual cannabis company and turned into coin-base. It should be noted that this is a modern form of laundering proceeds made by marijuana/cannabis companies in order to avoid State taxes and/or Law Enforcement detection.

Investigators contacted the Bureau of Cannabis Control and found that Empyreal LLC was not listed as a business authorized to conduct marijuana/cannabis business in the State of California. In addition, some of the companies having their currency transported were also not listed as authorized marijuana/cannabis businesses through the State of California.

It should also be noted that Detective Travis Buell deployed his narcotics K9, Brix and conducted an exterior sniff of the [REDACTED] K9 Brix positively alerted to the odor of narcotics emitting from the vehicle.

In order to continue the investigation in a safe location, [REDACTED] and the [REDACTED] were transported to the Barstow Station parking lot.

Based on the totality of circumstances, I believe the [REDACTED] contains proceeds from illegal marijuana/cannabis companies for the purpose of money laundering. I am requesting this search warrant be authorized in order to search the contents of the [REDACTED] and seize and illegal proceeds it may contain.

EXIGENT CIRCUMSTANCE:

Due to [REDACTED] and [REDACTED] currently being detained until the conclusion of the investigation coupled with the fact that he was in transit to Las Vegas, Nevada, I am requesting this warrant be considered exigent.

Search Warrant and Affidavit [REDACTED]

VVSW 21-3675

WARRANT NOTES

(No Notes)

County of San Bernardino.


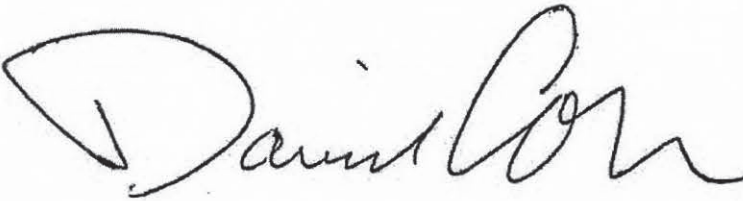
The people of the State of California to any peace officer in the County of San Bernardino:

Proof, by affidavit, having been this day made before me by telephone by the officer whose signature is affixed to the affidavit, that there is probable cause for believing that evidence tending to show that a felony (or felonies) has or have been committed, you are therefore commanded to make search on the person and/or property set forth in the description page and/or affidavit, which is incorporated by reference herein; and, in the case of a thing or things or personal property, if you find the same or any part thereof, to bring the thing or things or personal property forthwith before me at the courthouse of this Court.

Given under my hand, and issued at 17:26 on this 16th day of November, 2021

Hobbs Sealing Approved: **NO**

Night Service Approved: **NO**



Judge David Cohn

Warrant ID: 000073071

END OF WARRANT

KOELLER, NEBEKER, CARLSON & HALUCK LLP

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Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

EMPYREAL ENTERPRISES, LLC,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,
et al.,

Defendants.

Case No. 5:22-cv-00094-JWH-SHKx

**DECLARATION OF ERIC
PICARDAL IN SUPPORT OF
PLAINTIFF'S RENEWED *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION**

Honorable John W. Holcomb
Complaint Filed: 1/14/22

1 I, Eric Picardal, submit the following supplemental declaration in support of
2 Plaintiff's Application to File Under Seal and Renewed *Ex Parte* Application for
3 Temporary Restraining Order and Order to Show Cause.
4

5 1. I am a citizen of the United States of America and a resident of the state
6 of Nevada. I am over eighteen years of age and fully competent to make this
7 declaration.
8

9 2. On November 16, 2021, I was a Transit Supervisor for Empyreal
10 Enterprises, LLC d/b/a Empyreal Logistics ("Empyreal"). I have a background of
11 over 25 years working in the cash-in-transit industry.
12

13 3. I am no longer employed by Empyreal, but I am offering this
14 declaration because I am a witness mentioned in the November 16, 2021 search
15 warrant submitted by Deputy Franco.
16

17 4. I have personal knowledge of the following facts and would
18 competently testify to them if called upon to do so.
19

20 5. My then-colleague Adrian Serret and I received a call from Empyreal
21 driver Dayler Quinones Navarro on November 16, 2021, regarding a traffic stop in
22 San Bernardino County, California.
23

24 6. Mr. Navarro informed us he had been stopped by law enforcement and
25 put San Bernardino County Sheriff's Deputy Franco on the line via speaker phone.
26

27 7. Deputy Franco aggressively accused Empyreal of money laundering by
28 taking cannabis proceeds across state lines and asked about our roles in the company.

1 8. I explained that I was the Transit Supervisor in Empyreal's North Las
2 Vegas branch and briefly explained how our cash-in-transit business operated and
3 that we were not laundering money.
4

5 9. At one point during the call, the deputy asked: "Just so I understand,
6 you receive money from these marijuana companies, and then you exchange it for
7 coins and give it back?"
8

9 10. I'm not sure where that question came from or what brought up the
10 subject of coins, except that the driver may have told the deputy that he had coins in
11 the back of the vehicle.
12

13 11. I explained that Empyreal does sometimes provide change orders that
14 exchange rolled coins or small bills with clients in exchange for larger bills so that
15 they can make change for their customers.
16

17 12. I also explained that Empyreal's primary clients are the financial
18 institutions.
19

20 13. Contrary to Deputy Franco's affidavit in support of the Nov. 16 search
21 warrant, I did not say anything on the call about Coinbase or any kind of
22 cryptocurrency conversion, and I would have had no reason to do so because
23 Empyreal did not offer those services.
24
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1 14. It is possible that Deputy Franco somehow confused my explanation
2 of change orders—when Empyreal provides rolled coins or small bills to clients in
3 exchange for larger bills so that they can make change for their customers—with a
4 mention of Coinbase. But otherwise, I do not understand how Deputy Franco
5 thought I mentioned anything about Coinbase or cryptocurrency on our Nov. 16
6 phone call.
7

8
9 15. After five minutes or so on the phone with Deputy Franco, I got his
10 phone number and provided it to Michael Jerome, our Senior VP of Operations, so
11 he could better explain Empyreal's legal business operations to Deputy Franco.
12

13
14 I declare under penalty of perjury that the foregoing is true and correct.
15

16 Executed this 27th day of January, 2022, in Las Vegas, Nevada.
17

18 

19 Eric Picardal
20
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KOELLER, NEBEKER, CARLSON & HALUCK LLP

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EMPYREAL ENTERPRISES, LLC,

Plaintiff,

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et al.,

Defendants.

Case No. 5:22-cv-00094-JWH-SHKx

**DECLARATION OF MICHAEL
JEROME IN SUPPORT OF
PLAINTIFF'S RENEWED *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION**

Honorable John W. Holcomb
Complaint Filed: 1/14/22

1 I, Michael Jerome, submit the following supplemental declaration in support
2 of Plaintiff's Application to File Under Seal and Renewed *Ex Parte* Application for
3 Temporary Restraining Order and Order to Show Cause.
4

5 1. I am a citizen of the United States of America and a resident of the state
6 of Colorado. I am over eighteen years of age and fully competent to make this
7 declaration.
8

9 2. I am the Senior Vice President of Operations at Empyreal Enterprises,
10 LLC d/b/a Empyreal Logistics ("Empyreal"). I have been employed by Empyreal
11 since mid-2018, originally serving as Vice President of Operations.
12

13 3. Prior to joining Empyreal, I was employed in an upper-level
14 management position by another cash-in-transit, cash processing, and security guard
15 organization for approximately four years.
16

17 4. Before that, I was employed as a POST-certified, level-one peace
18 officer / deputy sheriff in Colorado for 12 years. During that time, I worked in the
19 sheriff's office patrol and detentions divisions, performing a number of duties
20 including: crime prevention and criminal activity investigation and mitigation;
21 working with businesses and residential groups addressing criminal trends and
22 quality-of-life issues in their areas; creating and communicating sheriff's office
23 enforcement goals and efforts to county residents and businesses; investigating
24 criminal activity per the Colorado Revised Statutes Title 18; managing and
25 supervising detentions facility and work-release inmates; referring gang-related
26
27
28

1 communications and activities to the sheriff's office gang intelligence unit; and other
2 daily duties as assigned.

3
4 5. Prior to that, I was in the Army National Guard in Washington State for
5 approximately two years.

6
7 6. On November 16, 2021, I received a phone call from Eric Picardal, then
8 a transport supervisor for Empyreal. Eric informed me that an Empyreal armored
9 vehicle was stopped in San Bernardino County by an officer with the San Bernardino
10 Sheriff's Office, Deputy Franco. Eric informed me that Deputy Franco was
11 suspicious about Empyreal's cash-in-transit activity and was planning on seizing the
12 currency inside the vehicle.
13

14
15 7. I contacted Deputy Franco, who informed me of his intentions to seize
16 funds that were inside the Empyreal vehicle because he suspected that the funds were
17 connected to potentially illegal cannabis-related businesses.

18
19 8. I explained that Empyreal operates as a traditional cash-in-transit
20 company and that Empyreal works with licensed financial institutions (banks and
21 credit unions) to provide currency transportation services to their customers. I
22 explained that Empyreal's vehicles pick up sealed bags of currency and coin from
23 retail locations in Southern California and return the currency to Empyreal's branch
24 location. Cash processing personnel in Empyreal's branch location then open the
25 sealed bags of currency, count and record the amount of currency in each bag, and
26 enter that information into vault management software. Empyreal generates daily
27
28

1 reports for financial institutions, enabling those institutions to credit and debit their
2 client accounts based on deposits verified and change orders fulfilled by Empyreal
3 cash processing personnel.
4

5 9. Deputy Franco asked why we transported the currency out of
6 California, claiming that doing so was preventing California from collecting tax
7 revenue on the currency transported out of California.
8

9 10. I explained to Deputy Franco that after Empyreal cash processing
10 personnel count and validate deposits from financial institution retail clients, that
11 currency is strapped, bundled, and delivered back into the banking system in Los
12 Angeles, CA. I explained to Deputy Franco that this process ensures that California
13 tax revenue is still collected.
14
15

16 11. I further explained that Empyreal is transparent about its cash-in-transit
17 services with banks and credit unions and fully reports all currency
18 transported/processed to those financial institutions, in compliance with all laws.
19 State-legal cannabis businesses are thus subject to tax compliance and auditing based
20 on the currency Empyreal processes and reports to financial institutions.
21
22

23 12. Deputy Franco asked what kind of clients we serviced. I told him that
24 Empyreal transports currency only for retail business with legitimate accounts at
25 banks and credit unions; some of our clients include financial branches, convenience
26 stores, coffee shops, etc., while other clients are involved with the state-legal
27 cannabis industry. I explained that Empyreal only provides cash-in-transit services
28

1 for state-legal cannabis businesses that are properly registered with the state and
2 have accounts with banks and/or credit unions that have been subject to financial
3 institution compliance/auditing procedures.
4

5 13. I told Deputy Franco that Empyreal never transports any cannabis
6 products; Empyreal only transports currency and coin, as other cash-in-transit
7 companies do.
8

9 14. Deputy Franco claimed that Eric Picardal told him that Empyreal
10 converts cash deposits into cryptocurrency, or “coin-base”. I was confused by this
11 assertion; I told Deputy Franco that Empyreal does not, in any way, convert cash or
12 coin deposits into cryptocurrency. All cash and coin collected by Empyreal is
13 processed and reported to financial institutions as their original cash and coin
14 amount.
15
16

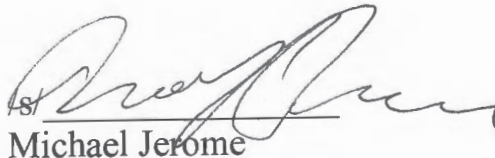
17 15. I did explain that one of Empyreal’s services to its clients is to provide
18 change orders. Since cash-intensive retail clients are dependent on having small bills
19 (cash) and coin on hand to provide as change to their customers, Empyreal fulfills
20 change orders for its cash-in-transit clients in the form of bills (primarily \$1s, \$5s,
21 and \$10s) and rolled coin (pennies, nickels, dimes, and quarters). Most of the time,
22 these change orders placed by Empyreal’s cash-in-transit clients are reported by
23 Empyreal to their financial institutions and debited from their bank accounts.
24 Sometimes, Empyreal’s clients will provide currency (larger bills) in exchange for
25 the smaller bills and rolled coin; this is referred to as a “change exchange” service
26
27
28

1 by Empyreal. The larger bills provided by Empyreal's cash-in-transit clients are still
2 processed by Empyreal's branch cash-processing personnel as deposits and reported
3 to their financial institutions.
4

5 16. Deputy Franco seemed unmoved by my explanation and reasserted his
6 belief that the currency inside the cash-in-transit vehicle was collected from illegal
7 cannabis operations. I explained again that Empyreal operates as a legitimate cash-
8 in-transit company providing services only to licensed and state-legal businesses,
9 with full reporting of cash movement, processing and change order fulfillment to
10 banks and credit unions. Deputy Franco said he was not going to "litigate this on
11 the side of the road," and he said the Sheriff's Department was going to seize the
12 funds inside the vehicle.
13
14
15
16

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed this 27th day of January, 2022, in Englewood, Colorado.
19

20
21 
22 Michael Jerome
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