

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	Civil Action No. 05 C 5442
v.)	Judge James B. Moran
)	
Centurion Financial Benefits LLC, <i>et al.</i> ,)	
)	
Defendants.)	
)	

~~PROPOSED~~
**FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION
AGAINST FRANK BELLISSIMO**

Plaintiff, the Federal Trade Commission (“FTC” or “the Commission”), commenced this action by filing its Complaint, followed by a First Amended Complaint, for injunctive and other equitable relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101, *et seq.*, charging that the defendants engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule,” 16 C.F.R. Part 310.

On December 13, 2006, the Court granted the FTC’s Motion for Motion for Judgment on the Pleadings as to Frank Bellissimo and Frank Bellissimo and entered an order finding these defendants liable for Counts I through III of the FTC’s First Amended Complaint.

The Commission now seeks the entry of a final judgment against Frank Bellissimo

pursuant to Fed. R. Civ. P. 54. Having considered the memorandum and exhibits filed in support of the Commission's motion and the entire record in this matter, and now being fully advised in the premises, the Court hereby grants the Commission's motion for judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310. Pursuant to these statutes and regulations, the Commission has the authority to seek the relief contained herein.

2. The Commission's First Amended Complaint states a claim upon which relief may be granted against Defendant Frank Bellissimo under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310.

3. This Court has jurisdiction over the subject matter of this case and all parties hereto.

4. Venue in the United States District Court for the Northern District of Illinois is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b), (c), and (d).

5. The alleged activities of Defendant Frank Bellissimo are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6. Defendant Frank Bellissimo was properly served with process in this matter.

7. On December 13, 2006, the Court entered an order granting Plaintiff Federal

Trade Commission's Motion for Judgment on the Pleadings as to Defendants Robert Houttuin and Frank Bellissimo, finding them liable for Counts I, II, and III of the the FTC's First Amended Complaint.

8. The factual allegations in the Commission's First Amended Complaint are taken as true against Defendant Frank Bellissimo. Those allegations and the evidence supporting them establish that Defendant Frank Bellissimo violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and Sections 310.3(a)(2)(iii) and 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. Part 310.

9. Defendant Frank Bellissimo is likely to continue to engage in the acts and practices alleged in the First Amended Complaint unless he is permanently enjoined from such acts and practices.

10. The Commission is entitled to equitable monetary relief against Defendant Frank Bellissimo in the amount of \$9,894,514 (USD).

11. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

12. Entry of this Order is in the public interest.

13. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon Defendant Frank Bellissimo, his officers, agents, servants, employees, attorneys, corporations, successors and assigns, and upon those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Defendant" means Defendant Frank Bellissimo.

2. "Asset" or "assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), and all cash, wherever located.

3. "Assisting others" means providing any of the following goods or services to any person or entity engaged in telemarketing: (a) preparing, printing, or transmitting invoices; (b) recording or verifying sales solicitations; (c) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints, obtaining or receiving identifying and financial information from consumers, and communicating with consumers on behalf of the seller or telemarketer; (d) providing for or arranging for the provision of mail or telephone lists; (e) preparing or providing, or causing to be prepared or provided, telephone sales scripts or other materials for use in connection with the promotion of products or services to consumers; (f) providing, mailing or shipping, or arranging for the provision, mailing, or shipping, of fulfillment products or services; (g) providing or arranging for the provision of telemarketing services; (h) providing or facilitating the means of obtaining payment from consumers, by providing or facilitating access to the credit card or bank account payment and collection system; (i) developing, providing, or arranging for the provision of names of potential customers; (j) providing or arranging for the provision of post office boxes or the services of commercial receiving agencies; and (k) performing or providing marketing services of any kind.

4. "Consumer" means any individual, group, unincorporated association, limited or

general partnership, corporation, or other business entity.

5. "Credit-related products, programs, or services" means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any extension of credit or credit device, including, but not limited to, credit cards, loans, or financing, or as a method to consolidate or liquidate debts.

6. "Customer" means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by Defendant.

7. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

8. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

9. "Person" means a natural person, organization, or other legal entity, including, but not limited to, a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

10. "Telemarketing" means a plan, program, or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones.

ORDER

I.

PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that, in connection with the advertising, marketing, promoting, offering for sale, or sale of any product, program, or service, Defendant Frank Bellissimo, and his officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby permanently restrained and enjoined from:

A. Making, or assisting others in making, any express or implied representation or omission of material fact that is false or misleading, in any manner, including, but not limited to, any false or misleading statement:

1. That Defendant will provide consumers with, or arrange for consumers to receive, a major credit card, such as a Visa or MasterCard;

2. Concerning the Defendant's ability to provide consumers with any credit-related product, program, or service; and

3. Concerning any fact material to a consumer's decision to purchase any product, program or service;

B. Violating or assisting others to violate any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, *et seq.*, including, but not limited to:

1. Violating Section 310.3(a)(2) of the Telemarketing Sales Rule, 16 C.F.R.

§ 310.3(a)(2), by misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer, 16 C.F.R. § 310.3(a)(2)(iii);

2. Violating Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4), by requesting or receiving payment of any fee or consideration in advance of obtaining or arranging an extension of credit when they have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit;

C. Assisting others who violate any provision of Subsections A and B of this Section.

II.

MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered against Defendant Frank Bellissimo in the amount of Nine Million, Eight Hundred Ninety-Four Thousand, Five Hundred Fourteen Dollars (\$9,894,514 (USD)). This monetary judgment shall become immediately due and payable by Defendant upon entry of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance;

B. All funds paid pursuant to this Section shall be deposited into a fund administered by the Commission or its agent, to be used for equitable relief, including but not limited to, consumer redress and any attendant expenses for the administration of such equitable relief. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably

related to the Defendant's practices alleged in the First Amended Complaint. Defendant shall have no right to challenge the Commission's choice of remedies under this Section; and

C. The judgment entered pursuant to Subsection A of this Section for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

III.

ASSET FREEZE

IT IS FURTHER ORDERED that, except for funds necessary for the payment of the monetary judgment required by Section II of this Order, the assets of Defendant Frank Bellissimo shall remain frozen pursuant to Section II of the Stipulated Order for Preliminary Injunction with Asset Freeze and Other Relief entered by the Court on January 23, 2006 ("Preliminary Injunction"), except that the asset freeze set forth in Section II of the Preliminary Injunction is modified so that the assets affected by this Section shall include both existing assets and assets acquired after the issuance date of this Order, and shall not exclude any assets derived from any source. The asset freeze against Defendant Frank Bellissimo shall remain in effect until he has made full payment of the monetary judgment required by Section II of this Order.

IV.

ASSETS HELD BY THIRD PARTIES

IT IS FURTHER ORDERED that in order to partially satisfy the monetary judgment set forth in Section II above, any law firm, financial or brokerage institution, escrow agent, title company, commodity trading company, automated clearing house, network transaction processor, business entity, or person that holds, controls, or maintains custody of any account or

asset of, on behalf of, or for the benefit of, Defendant Frank Bellissimo, or has held, controlled, or maintained custody of any account or asset of, or for the benefit of, Defendant Frank Bellissimo, shall turn over such account or asset to the Commission, within ten (10) business days of receiving notice of this Order by any means, including, but not limited to, via facsimile.

V.

CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendant, and his officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to or received any credit-related product, program, or service from Defendant, or whose identifying information was obtained for the purpose of soliciting them to pay money to or receive services from Defendant at any time prior to the date this Order is entered, in connection with the sale or rendition of the products, programs, or services referenced in the First Amended Complaint.

Provided, however, that Defendant, and his officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with

them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, may provide such information to a law enforcement agency either voluntarily, or as required by any law, regulation, or court order.

VI.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including, but not limited to, the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and

2. posing as consumers and suppliers to: Defendant, his employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and

C. Defendant shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed

to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VII.

COMPLIANCE REPORTING BY DEFENDANT

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
 1. Defendant shall notify the Commission of the following:
 - a. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
 - b. Any changes in his employment status (including self-employment), and any change in the ownership of the Defendant in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that the Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of the Defendant's duties and responsibilities in connection with the business or employment; and
 - c. Any changes in the Defendant's name or use of any aliases or

fictitious names; and

2. Defendant shall notify the Commission of any changes in corporate structure of any business entity that the Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendant shall provide a written report to the FTC, sworn to under penalty of perjury under the laws of the United States, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. The then-current residence address, mailing addresses, and telephone numbers of Defendant;
2. The then-current employment and business addresses and telephone numbers of Defendant, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant, for each such employer or business; and
3. Any other changes required to be reported under subsection A of this Section.

4. A copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Section X of this Order;

C. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement
Federal Trade Commission
601 New Jersey Avenue N.W.
Washington, D.C. 20580
Re: FTC v. Centurion Financial Benefits LLC, Civ. Action No. 05 5442; and

D. For purposes of the compliance reporting required by this Order, the Commission is authorized to communicate directly with Defendant.

VIII.

MONITORING COMPLIANCE OF SALES PERSONNEL

IF IS FURTHER ORDERED that Defendant, in connection with any business where he is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing, or assisting others engaged in telemarketing, is hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Section I of this Stipulated Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints

regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take corrective action with respect to any sales person whom Defendant determines is not complying with this Order, which may include training, disciplining, and/or terminating such sales person.

IX.

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, in connection with any business where (1) Defendant is the majority owner, or directly or indirectly manages or controls the business, and (2) the business is engaged in, or assists others in engaging in, telemarketing, Defendant and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, is hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, dollar

