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05-CV-01739-ORD

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JOHN RAYMOND SALVATOR BEZEREDI,
individually and doing business as DOMINION
INVESTMENTS, EUROBOND FIDELITY LTD.,
and IMPERIAL INVESTMENTS,

Defendant.

Civil No. 05-1739

~~RESTRAINING ORDER~~ TEMPORARY
RESTRAINING ORDER WITH
ASSET FREEZE AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE

Plaintiff, Federal Trade Commission ("FTC" or "Commission"), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and having moved *ex parte* for a Temporary Restraining Order and for an order to show cause why a preliminary injunction should not be granted pursuant to Federal Rule of Civil Procedure 65(b), and the Court having considered the complaint, declarations, exhibits, and memorandum of law filed in support thereof, and now being advised in the premises, finds that:

1. This Court has jurisdiction of the subject matter of this case and there is good cause to believe it will have jurisdiction of all parties hereto;

2. There is good cause to believe that the Commission will ultimately succeed in establishing that Defendant John Raymond Salvator Bezeredi has engaged in, and is likely to engage in the future in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C.

1 § 45(a), and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR"),
2 16 C.F.R. Part 310; and, therefore, there is good cause to believe that the Commission is likely to
3 prevail on the merits of this action;

4 3. There is good cause to believe that immediate and irreparable damage will be
5 done to the public and to this Court's ability to grant full and effective final relief absent entry of
6 this Order on an *ex parte* basis; and

7 4. Weighing the equities and considering Plaintiff's likelihood of ultimate success,
8 an *ex parte* Temporary Restraining Order is in the public interest.

9 I.

10 PROHIBITED PRACTICES

11 IT IS THEREFORE ORDERED that the Defendant, and his successors and assigns,
12 whether acting directly or through any entity, corporation, subsidiary, division, or other device,
13 and all persons in active concert or participation with him who receive actual notice of this Order
14 by personal service or otherwise, are hereby temporarily restrained and enjoined from:

15 A. Promoting, offering for sale or selling, directly or indirectly, any interests,
16 holdings, shares or registrations in any bond program with a lottery, random drawing, or game of
17 chance feature to any U.S. consumer;

18 B. Misrepresenting or omitting any fact material to a consumer's decision to
19 purchase the Defendant's products or services, in connection with the advertising, marketing,
20 proposed sale, or sale of any product or service, or in the course of billing, attempting to collect,
21 or collecting money from any U.S. consumer;

22 C. Violating, or assisting others to violate, any provision of the Telemarketing Sales
23 Rule, 16 C.F.R. Part 310, a copy of which is attached and incorporated by reference, including,
24 but not limited to, the following, in connection with telemarketing to any U.S. resident person, as
25 "telemarketing" is defined in the TSR:

- 26 1. Making a false or misleading statement to induce any person to pay for any
27 good or service in violation of Section 310.3(a)(4) of the TSR, 16 C.F.R.
28 § 310.3(a)(4);

- 1 2. Failing to disclose, in a clear and conspicuous manner, before a customer
2 pays for any goods or services, all material restrictions, limitations, or
3 conditions to receive those goods or services, in violation of Section
4 310.3(a)(1)(ii) of the TSR, 16 C.F.R. § 310.3(a)(1)(ii);
- 5 3. Initiating or causing others to initiate outbound telephone calls to persons'
6 telephone numbers on the National Do Not Call Registry, in violation of
7 Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B);
8 and
- 9 4. Initiating or causing others to initiate outbound telephone calls to
10 telephone numbers within a given area code without first paying the
11 required annual fee for access to the telephone numbers within those area
12 codes that are included in the National Do Not Call Registry, in violation
13 of Section 310.8 of the TSR, 16 C.F.R. § 310.8.

14 **II.**

15 **ASSET FREEZE**

16 **IT IS FURTHER ORDERED** that, except as stipulated by the parties or as directed by
17 further order of the Court, Defendant and his successors and assigns, whether acting directly or
18 through any entity, corporation, subsidiary, division, or other device, and all persons in active
19 concert or participation with them who receive actual notice of this Order by personal service or
20 otherwise, are hereby temporarily restrained and enjoined from transferring, converting,
21 encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or
22 otherwise disposing of any funds, real or personal property, accounts, contracts, customer, or
23 mailing (including "Email") lists, shares of stock or other assets, or any interest therein, wherever
24 located, that are (a) owned or controlled by the Defendant, in whole or in part; or (b) in the actual
25 or constructive possession of the Defendant, or (c) owned, controlled by, or in the actual or
26 constructive possession of, any corporation, partnership or other entity, directly or indirectly
27 owned, managed, controlled by, or under common control with, the Defendant, including, but not
28 limited to, any assets held by or for the Defendant at any bank, savings and loan institution,

1 broker-dealer, commercial mail receiving agency, escrow agent, title company, commodity
2 trading company, precious metal dealer, or other financial institution or depository of any kind.
3 The assets affected by this section shall include both existing assets and assets acquired after
4 issuance of this Order, and the Defendant shall hold and account for these assets and all
5 payments received by him, including, but not limited to, borrowed funds or property and gifts.

6 III.

7 DUTIES OF THIRD PARTIES

8 **IT IS FURTHER ORDERED** that any entity, specifically including each of the entities
9 named in Section II above, that has had custody or control of any of the Defendant's accounts or
10 other assets at any time since January 1, 2000, and that is provided with a copy of this Order, or
11 otherwise has actual or constructive knowledge of this Order, shall:

12 A. Hold and retain control of all of the assets or other property the entity holds or
13 controls on behalf of, for the benefit or use of, or in any account in the name of, the Defendant, in
14 whole or in part; and prohibit the withdrawal, removal, assignment, transfer, pledge,
15 hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other
16 disposal of, any such property, except as directed by further order of this Court, or by written
17 agreement of Plaintiff and the parties claiming an interest in such account or asset;

18 B. Deny Defendant access to any safe deposit boxes, commercial mail boxes or
19 storage facilities that are either titled in the name, individually or jointly, of Defendant, or
20 otherwise subject to his access; and

21 C. Within five (5) business days of the date of notice of this Order, provide to
22 counsel for Plaintiff a statement setting forth:

- 23 1. The identification of each account or asset titled in the name, individually
24 or jointly, of the Defendant, or to which he is a signatory, or which is held
25 on his behalf, or for his benefit or use;
- 26 2. The balance of each such account, or a description and appraisal of the
27 value of such asset, as of the close of business on the day on which notice
28 of this Order is received;

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- 3. If the account or other asset has been closed or removed, or more than \$1,000 withdrawn or transferred from it within the last ninety (90) days, the date of the closure or removal of funds, the total amount removed or transferred, and the name and account number of the person or entity to whom such account, funds, or other asset was remitted; and
- 4. The identification of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Defendant, or is otherwise subject to his access or control.

D. The assets and accounts affected by this Section shall include both existing assets and assets acquired after the effective date of this Order.

IV.
REPATRIATION OF FOREIGN ASSETS

IT IS FURTHER ORDERED that the Defendant shall:

- A. Immediately upon service of this Order, or as soon as relevant banking hours permit, transfer to the territory of the United States all funds, documents, and assets located in countries outside of the U.S. and Canada that are held: (1) by the Defendant; (2) for his benefit; or (3) under his direct or indirect control, jointly or singly;
- B. Hold and retain all repatriated funds, documents, and assets, and prevent any transfer, disposition, or dissipation of these funds, documents, and assets;
- C. Provide Plaintiff with access to the Defendant's records and documents held by financial institutions outside the territorial United States; and
- D. Provide Plaintiff with a full accounting of all funds, documents and assets outside of the territory of the United States which are held : (1) by the Defendant; (2) for his benefit; or (3) under his direct or indirect control, jointly or singly.

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MAINTENANCE OF RECORDS

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IT IS FURTHER ORDERED that the Defendant and his successors and assigns, whether acting directly or through any entity, corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from:

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A. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely, reflect the incomes, disbursements, transactions, and use of monies by the Defendant;

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B. Failing to maintain complete records of any consumer complaints and disputes, whether coming from the consumer or any intermediary, such as a government agency or Better Business Bureau, and any responses made to those complaints or disputes; and

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C. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any contracts, client lists, membership or mailing lists, accounting data, correspondence, advertisements, computer tapes, disks or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, "verification" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices or business or personal finances of Defendant.

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COMPLETE AND FILE FINANCIAL STATEMENT

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IT IS FURTHER ORDERED that, within ten days after service of this Order, the Defendant shall serve upon counsel for Plaintiff a completed financial statement on the forms served with this Order, attaching copies of all income and property tax returns, including attachments and schedules, filed with any jurisdiction, as called for by the instructions to the financial statements. The financial statements shall be accurate as of the date of the entry of this Order and shall be verified under oath.

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VII.

CONSUMER CREDIT REPORT

IT IS FURTHER ORDERED that pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report concerning Defendant to Plaintiff.

VIII.

THIRD PARTY DISCOVERY

IT IS FURTHER ORDERED that the Commission is granted leave, at any time after service of this Order, to take the deposition of any person or entity for the purpose of discovering the nature, location, status, and extent of assets of defendant, and the location of documents reflecting the business transactions of defendant, and to demand the production of documents from any person or entity relating to the nature, status, and extent of defendant's assets and the location of documents reflecting the business transactions of defendant; forty-eight (48) hours notice shall be deemed sufficient for any such deposition and five (5) days notice shall be deemed sufficient for the production of any such documents. Expedited discovery for any other purpose shall not be allowed except by order of the Court for good cause shown. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this paragraph.

IX.

NOTICE TO RELATED PERSONS AND ENTITIES

IT IS FURTHER ORDERED that Defendant shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and representative, and shall, within ten (10) days from the date of entry of this Order, provide Plaintiff with a sworn statement that Defendant has complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order.

X.

SERVICE OF ANSWERING AFFIDAVITS, PLEADINGS AND MEMORANDA

IT IS FURTHER ORDERED that, if Defendant files any answering affidavits, pleadings, and legal memoranda prior to the hearing on Plaintiff's request for a preliminary injunction, Defendant shall serve such answering affidavits, pleadings, and legal memoranda on counsel for Plaintiff not less than four (4) business days prior to that hearing. Defendant shall serve copies of all such materials on Plaintiff by personal service, overnight delivery, or facsimile to Mary T. Benfield, Federal Trade Commission, 915 Second Avenue, Suite 2896, Seattle, Washington 98174, facsimile (206) 220-6366.

XI.

SHOW CAUSE

IT IS FURTHER ORDERED that Defendant shall appear before this Court on the 26th day of October, at 1:30 o'clock p.m., to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendant, enjoining him from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the TSR, continuing the freeze of his assets, and imposing whatever additional relief may be appropriate.

XII.

EXAMINATION OF WITNESSES

IT IS FURTHER ORDERED that there will be no direct examination of witnesses at the preliminary injunction hearing in this matter, unless specifically ordered by this Court. In the event this Court permits direct examination of witnesses at the preliminary injunction hearing in this matter, the parties shall exchange and file with the Court the names of those witnesses to testify at the hearing and a summary of the substance of the witnesses' testimony to be proffered at the hearing no later than four business days prior to the scheduled hearing.

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XIII.

EXPIRATION

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein expires ten (10) days after entry unless, within that time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is extended with the consent of the parties.

XIV.

NOTICE OF THIS ORDER


IT IS FURTHER ORDERED that copies of this Order may be distributed by first class mail, overnight delivery, facsimile, electronic mail, or personally, by agents or employees of Plaintiff, upon any credit card processing agent or agent providing electronic funds transfer, debit draft, or ACH processing services, customer service agent, commercial mail receiving agency, mail holding or forwarding company, bank, savings and loan institution, credit union, financial institution, accountant, brokerage house, escrow agent, IRA custodian, money market or mutual fund, title company, commodity futures merchant, commodity trading company, common carrier, list manager, storage company, trustee, or any other person, partnership, joint venture, corporation, or legal entity that may be in possession of any documents, records, assets, property, or property right of Defendant, and any other person, partnership, corporation, or legal entity that may be subject to any provision of this Order. Service upon any branch or office of any financial institution or entity shall effect service upon the entire financial institution or entity.

XV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

Dated this 17 day of October, 2005.


UNITED STATES DISTRICT JUDGE

PRESENTED BY:
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Federal Trade Commission
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