

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2014 SEP -4 PM 12:00

CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SUN BRIGHT VENTURES LLC,
a Florida Limited Liability Company,

CITADEL ID PRO LLC,
a Florida Limited Liability Company,

BENJAMIN TODD WORKMAN,
Individually and as a manager of Sun Bright
Ventures LLC and Citadel ID Pro LLC,

Defendants, and

TRIDENT CONSULTING PARTNERS LLC,
a Florida Limited Liability Company,

GLENN ERIKSON,

Relief Defendants.

Case No. 8:14-cv-2153-T27-EAJ

TEMPORARY
RESTRAINING ORDER

Filed Under Seal

Plaintiff, the Federal Trade Commission (“FTC”), has filed its Complaint for Permanent Injunction 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, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Dkt. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a Temporary Restraining Order, Asset Freeze, Other Equitable Relief, and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue against Defendants Sun Bright Ventures LLC, Citadel ID Pro LLC, and Benjamin Todd Workman, as well as Relief Defendants Trident Consulting Partners LLC and Glenn Erikson. (Dkt. 3.)

FINDINGS

The Court, having considered the Complaint, the *ex parte* motion for a temporary restraining order, declarations, exhibits, and the pleadings, finds that:

1. This Court has subject matter jurisdiction and that venue is proper in this district, as Sun Bright Ventures LLC, Citadel ID Pro LLC, and Benjamin Todd Workman (hereinafter “Defendants”) and Trident Consulting Partners LLC and Glenn Erikson (hereinafter “Relief Defendants”) are all within the Middle District of Florida;

2. In numerous instances, Defendants’ telemarketers have contacted consumers, including elderly consumers, falsely representing that they are affiliated with or contacting consumers on behalf of Medicare. The telemarketers represent that they require certain personal information, such as bank account information, in order to provide the consumers with a new Medicare card or information concerning Medicare. Many consumers who were contacted have their telephone numbers listed on the National Do Not Call Registry.

3. Weeks after their conversations with the telemarketers, consumers’ bank accounts were debited without their permission by Defendants in the amounts of either \$399 or \$448 with notations on many of the checks indicating that the payment was for “Medicare Benefit Plan” of “Identity Theft Protection.” These consumers received no products or services. In most instances, the consumers’ attempts to obtain refunds from Defendants were ignored or unfulfilled.

4. The FTC has submitted *prima facie* evidence demonstrating a likelihood that Defendants Sun Bright Ventures LLC, Citadel ID Pro LLC, and Benjamin Todd Workman have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310, and that the FTC is likely to prevail on the merits;

5. The FTC has submitted *prima facie* evidence that immediate and irreparable harm will result from the Defendants' ongoing violations of Section 5 of the FTC Act and the TSR unless Defendants are restrained and enjoined by Order of this Court;

6. Defendants Sun Bright Ventures LLC, Citadel ID Pro LLC, and Benjamin Todd Workman transferred substantial sums they obtained from these consumers to Relief Defendants Trident Consulting Partners LLC and Glenn Erikson, and Relief Defendants have no legitimate claim to those funds;

7. Immediate and irreparable damage to the ability to grant effective relief for these consumers, including monetary restitution, rescission, disgorgement or refunds, will result from the sale, transfer, or other disposition or concealment by Defendants or Relief Defendants of their assets or records if Defendants and Relief Defendants are provided with advance notice of this Order. Therefore, in accordance with Fed. R. Civ. P. 65(b), the interests of justice warrant that this Order be granted without prior notice to Defendants and Relief Defendants;

8. The FTC has submitted evidence that Defendants are likely to dissipate or conceal assets, destroy documents, and misuse consumers' personal information. Therefore, *prima facie* evidence supports (a) the freezing of Defendants' and Relief Defendants' assets and (b) the ancillary relief ordered below;

9. Weighing the equities and considering Plaintiff's likelihood of success on the merits, a temporary restraining order with an asset freeze and other equitable relief is in the public interest.

10. The FTC is an independent agency of the United States of America. No security is required of any agency of the United States for the issuance of a temporary restraining order. Fed. R. Civ. P. 65(c).

I.

BAN ON UNAUTHORIZED BILLING

IT IS ORDERED that Defendants and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, offering for sale, or sale of any healthcare related or identity theft protection related goods or services, are hereby temporarily restrained and enjoined from billing, charging, or causing a consumer to be billed or charged.

II.

PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, their representatives (including Defendants' successors, assigns, officers, agents, servants, employees, and attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise), and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, offering for sale, or sale of any goods or services, are restrained and enjoined from misrepresenting, directly or indirectly, expressly or by implication, any material fact, including but not limited to the following:

A. That Defendants are contacting the consumer on behalf of, or are otherwise affiliated with, Medicare or any other government program;

B. That Defendants sell, offer, or provide a Medicare card or any other healthcare related goods or services;

C. That Defendants sell, offer, or provide any identity theft protection related goods or services;

D. That it is necessary for Defendants to obtain consumers' personal information, such as bank account information, to verify consumers' identities; or

E. That Defendants will not charge consumers' financial accounts.

III.

CONDUCT PROHIBITIONS REGARDING MARKETING

IT IS FURTHER ORDERED that Defendants, their representatives, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, offering for sale, or sale of any product or service, including any healthcare related or identity theft protection related goods or services, are restrained and enjoined from violating the Telemarketing Sales Rule, 16 C.F.R. Part 310.

IV.

PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants and their representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are restrained and enjoined from selling, renting, leasing, transferring, using, or disclosing the name address, telephone number, Social Security number, credit card number, bank account number, email address, or other identifying information of any person that any Defendant obtained prior to entry of this Order in connection with the activities which are the subject of this Order, provided, however, that Defendants may disclose such identifying information to a law enforcement agency or as required by an law, regulation, or court order.

V.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants and Relief Defendants, and their representatives, are restrained and enjoined from:

A. Disposing or encumbering any funds, real or personal property, accounts, consumer lists, shares of stock, or other assets, or any interest therein, wherever located, whether within the United States or within a jurisdiction outside the United States.

B. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of Sun Bright Ventures LLC or Citadel ID Pro LLC (together the “Corporate Defendants”) or Relief Defendant Trident Consulting Partners LLC.

C. Obtaining a personal or secured loan encumbering the assets of any Defendant or Relief Defendant; and

D. Incurring liens or other encumbrances on real property, personal property or other assets titled in the name, singly or jointly, of any Defendant or Relief Defendant.

The assets affected by Section V shall include: (1) all assets of any Defendant or Relief Defendant as of the time of issuance of this Order; and (2) assets obtained after the time of issuance of this Order if the assets are derived from any activity that is the subject of the Commission’s Complaint or that is prohibited by this Order.

VI.

DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that any financial or brokerage institution, payment processor, business entity, or person served with a copy of this Order that holds, controls or maintains custody of any account, safe deposit box, or other asset of any Defendant or Relief

Defendant or has maintained any such account, safe deposit box, or other asset of any Defendant or Relief Defendant at any time since the entry of this Order, shall:

- A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such asset, except by further order of the Court;
- B. Provide the Commission's counsel, within five (5) business days of receiving a copy of this Order, a written declaration setting forth:
 - 1. The identification number of each such account or asset titled in the name, individually or jointly, of any Defendant or Relief Defendant, or held on behalf of, or for the benefit of any Defendant or Relief Defendant;
 - 2. The balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and
 - 3. The identification of any safe deposit box that is titled in the name of, individually or jointly, or otherwise subject to access by any Defendant or Relief Defendant; and
- C. Promptly provide the Commission with copies of all records or other documentation pertaining to each such account or asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

VII.

CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency shall furnish to the Commission a consumer report concerning any Defendant or Relief Defendant upon service of this Order.

VIII.

FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that within five (5) days following the service of this Order, each Defendant and Relief Defendant shall:

- A. Provide the Commission with a full accounting of all funds, documents, and assets outside of the United States which are: (1) titled in the name, individually or jointly, of any Defendant or Relief Defendant; or (2) held by any person or entity for the benefit of any Defendant or Relief Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant or Relief Defendant;
- B. Provide the Commission access to all records of accounts or assets of any Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order as **Attachment A**;
- C. Transfer to the territory of the United States all funds, documents, and assets located in foreign countries which are: (1) titled in the name individually or jointly of any Defendant or Relief Defendant; or (2) held by any person or entity, for the benefit of any Defendant or Relief Defendant; or (3) under the direct or indirect control of any Defendant or Relief Defendant, whether jointly or singly; and

- D. The same business day as any repatriation, (1) notify counsel for the Commission of the name and location of the financial institution or other entity that is the recipient of such funds, documents, or assets; and (2) serve this Order on any such financial institution or other entity.

IX.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants and Relief Defendants and their representatives are restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets owned or controlled by Defendants or Relief Defendants, or in the hindrance of the repatriation required by Section VIII of this Order.

X.

IMMEDIATE PRODUCTION OF BUSINESS RECORDS

IT IS FURTHER ORDERED that Corporate Defendants shall, within five (5) business days of the entry of this Order, produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, the following materials:

- A. All sales scripts and any other scripts used by Corporate Defendants or on behalf of Corporate Defendants;
- B. All lists or repositories of sales leads used by Corporate Defendants or on behalf of Corporate Defendants;
- C. All documents identifying the source or origin of any sales leads used by Corporate Defendants or on behalf of Corporate Defendants;
- D. All documents concerning the sale, transfer, or disposition of any sales leads used by Corporate Defendants or on behalf of Corporate Defendants;

E. All customer information, including names, phone numbers, addresses, e-mail addresses, and payment and refund information for all consumers who have purchased goods or services from Corporate Defendants;

F. All complaints or refund requests from customers, whether sent directly to Defendants or received through any law enforcement agency or third-party organizations such as the Better Business Bureau, and any responses from Defendants;

G. Accounting information, including sales data, profit and loss statements, annual reports, receipt books, ledgers, reports generated by accounting software, and names and contact information for all accounting professionals retained or utilized by or on behalf of the Defendants;

H. Recordings of any sales calls or customer service calls;

I. Any agreements and correspondence (including email, short message service (SMS), instant messaging, or any other electronic communication) between Defendants, and payment processing companies, independent sales organizations, financial institutions, or Relief Defendants.

J. All computers and data in whatever form, used by Corporate Defendants, including hard drives, cd-roms, zip disks, USB flash drives, and any other electronic storage media on which information has been saved, and all access codes, passwords, log-in information, and equipment needed to access such material. Within one (1) business day of the entry of this Order, Defendants shall (i) notify counsel for the Commission of the name and location of any person or entity that is hosting, storing, or otherwise maintain electronic data ("Electronic Data Host") related to Corporate Defendants' operations; and (2) serve this Order on any such person or entity. Corporate Defendants shall provide such Electronic Data Host with their consent for the Federal Trade Commission and its agents to receive access to Corporate Defendants' data for the purpose of forensic imaging, and Corporate Defendants shall execute any documents and otherwise cooperate as necessary to facilitate such access.

With the exception of “[a]ll customer information, including names, phone numbers, addresses, e-mail addresses, and payment and refund information for all consumers who have purchased goods or services from Corporate Defendants,” the Commission shall return any material produced pursuant to this Section within seven (7) business days of Corporate Defendants’ production.

XI.

NOTICE OF ACTIONS AGAINST CORPORATE DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall provide to Plaintiff within five (5) business days, a list of all known pending legal actions against Corporate Defendants.

XII.

PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendants and Relief Defendants, and their representatives, as well as any document custodians receiving actual notice of this Order, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from destroying, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, documents that relate to any and all marketing materials, internet pages, consumer complaints, rate decks, call detail records, telephone logs, telephone scripts, contracts, correspondence, email, corporate books and records, accounting data, financial statements, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, calendars, appointment books, and tax returns.

XIII.

SERVICE OF THIS ORDER ON THIRD-PARTIES

IT IS FURTHER ORDERED that copies of this Order may be served by all recognized means of service, including email or facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant or Relief Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

XIV.

SERVICE UPON PLAINTIFF

IT IS FURTHER ORDERED that Defendants and Relief Defendants shall serve all pleadings, memoranda, correspondence, affidavits, declarations, or other documents related to this Order or Plaintiff's motion for a preliminary injunction by: (1) email at tbiesty@ftc.gov and rdeitch@ftc.gov; and (2) facsimile transmission to (202) 326-3395; hand delivery to the offices of the Federal Trade Commission, at 600 Pennsylvania Avenue, NW, Mail Drop CC-8528, Washington, DC 20580, and addressed to the attention of Thomas M. Biesty and Russell Deitch; or overnight shipment through a third-party commercial carrier for delivery at the address listed above.

XV.

DEFENDANTS' DUTY TO DISTRIBUTE ORDER

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their affiliates, subsidiaries, divisions, sales entities, successors, assigns, officers, directors, employees, independent contractors, client companies, agents, attorneys, spouses and representatives, and shall, within ten (10) days from the date of entry of this Order, provide the

Commission with a sworn statement that: (A) confirms that Defendants have provided copies of the Order as required by this paragraph; and (B) lists the names and addresses of each entity or person to whom Defendants provided a copy of the Order. Furthermore, Defendants shall not take any action that would encourage officers, agents, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

XVI.

DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that this Temporary Restraining Order shall expire fourteen (14) days from the date of entry unless, within such time, the Order is extended for a period not to exceed fourteen (14) days for good cause shown, or unless, as to any Defendant or Relief Defendant, such Defendant or Relief Defendant consents to an extension for a longer period.

ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that each Defendant and Relief Defendant shall appear before the Honorable Elizabeth Jenkins, United States Magistrate Judge, Sam Gibbons United States Courthouse, Tampa, Florida, on **SEPTEMBER 18, 2014 AT 2:00 P.M.**, to show cause why a Preliminary Injunction enjoining the violations of law alleged in the Commission's Complaint, continuing the asset freeze, and imposing such additional relief as may be appropriate should not be entered.

XVII.

BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

Whether a preliminary injunction is entered pursuant to Rule 65, Federal Rules of Civil Procedure will be determined on the pleadings, declarations, exhibits, and argument of the parties. Defendants and Relief Defendants shall file and serve on the Commission's counsel any responsive affidavits, pleadings, motions, expert reports or declarations, and/or legal memoranda not later than seven (7) days prior to the preliminary injunction hearing. The Commission may file responsive or supplemental pleadings, materials, affidavits, or memoranda and serve same on Defendants and Relief Defendants or their counsel not later than three (3) day prior to the preliminary injunction hearing, provided that service shall be performed by: (1) email, if the party or attorney has provided an email address to the opposing party or attorney (emails to the FTC shall be delivered to: tbiesty@ftc.gov; and (2) personal or overnight delivery, or facsimile. Documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Eastern Daylight Time) on the dates set forth in this paragraph.

DONE AND ORDERED this 4th day of September, 2014 at 11:15 o'clock A.M.


JAMES D. WHITTEMORE
United States District Judge

Attachment A

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, _____, do hereby direct any bank, savings and loan association, credit union, depository institution, finance company, commercial lending company, credit card processor, credit card processing entity, automated clearing house, network transaction processor, bank debit processing entity, brokerage house, escrow agent, money market or mutual fund, title company, commodity trading company, trustee, or person that holds, controls or maintains custody of assets, wherever located that are owned or controlled by me or at which I have an account of any kind, or at which a corporation or other entity has a bank account of any kind upon which I am authorized to draw, and its officers, employees and agents, to disclose all information and deliver copies of all documents of every nature in your possession or control which relate to the said accounts to any attorney of the Federal Trade Commission, and to give evidence relevant thereto, in the matter of *Federal Trade Commission v. Sun Bright Ventures, LLC, et al*, Civ. No. 8:14 cv 2153, now pending in the United States District Court for the Middle District of Florida, and this shall be irrevocable authority for so doing.

This direction is intended to apply to the laws of countries other than the United States of America which restrict or prohibit the disclosure of bank or other financial information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the accounts for which I may be a relevant principal.

Dated: _____

[Signature]

[Printed Name]