

FILED
U.S. DISTRICT COURT
2018 MAY -4 3:49
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

VISION SOLUTION MARKETING LLC,
et al.,

Defendants.

Case No. 2:18-cv-00356

**STIPULATED
TEMPORARY RESTRAINING ORDER
WITH ASSET FREEZE, AND OTHER
EQUITABLE RELIEF, AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE AGAINST
DEFENDANTS JUSTIN LARSEN, VSM
GROUP LLC, AND SPECIALIZED
CONSULTING SOLUTIONS LLC**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), has filed its Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and has moved, pursuant to Fed. R. Civ. P. 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against all Defendants. Plaintiff and Defendants Justin Larsen, VSM Group LLC, and Specialized Consulting Solutions LLC (hereinafter, the “Stipulating Defendants”) have agreed to the proposed temporary relief set forth below.

FINDINGS OF FACT

The Court, having considered the Complaint, the Motion for a Temporary Restraining Order, declarations, exhibits, and the supporting points and authorities filed in support thereof, and being otherwise advised, finds that:

A. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto and that venue in this district is proper.

B. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

DEFINITIONS

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

- A. “**Asset**” means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.
- B. “**Business Coaching Service**” means any product or service, including any program or plan, that is represented, expressly or by implication, to train or teach a consumer how to establish, operate, or improve a business.
- C. “**Corporate Defendants**” means VSM Group LLC and Specialized Consulting Solutions LLC, and each of their subsidiaries, affiliates, successors, and assigns.
- D. “**Stipulating Defendant(s)**” means Corporate Defendants and Justin Larsen, individually, collectively, or in any combination.
- E. “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs,

telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

F. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes, but is not limited to, any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

G. **“Individual Defendant”** means Justin Larsen.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Stipulating Defendants are hereby temporarily restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any Business Coaching Service;

B. Advertising, marketing, promoting, offering for sale, or selling any service to assist in the advertising, marketing, promotion, or selling of a Business Coaching Service, including, but not limited to, business entity formation, corporate document filing, bookkeeping services, business plans, market research, business credit development, product sourcing and drop shipping packages, website tools and services (such as website design, building, hosting programs or services), eBay research tools and services, tax planning services, and website marketing packages and services; and

C. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any Business Coaching Service or other service specified in Subsection 1(B) above.

II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, 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, are hereby temporarily restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing, the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Stipulating Defendant obtained in connection with any activity that pertains to the subject matter of this Order; and

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Stipulating Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Stipulating Defendants may disclose such identifying information to a law enforcement agency, to their attorneys as required for their defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action, provided the Stipulating Defendants comply with any protective order in the case.

III. ASSET FREEZE

IT IS FURTHER ORDERED that Stipulating Defendants and their officers, agents, employees, 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, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any Assets that are:

1. owned or controlled, directly or indirectly, by any Stipulating Defendant;
2. held, in part or in whole, for the benefit of any Stipulating Defendant;
3. in the actual or constructive possession of any Stipulating Defendant; or
4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Stipulating Defendant.

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Stipulating Defendant or subject to access by any Stipulating Defendant;

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Stipulating Defendant or of which any Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which any Stipulating Defendant is, or was on the date that this Order was signed, an authorized signor; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of any Stipulating Defendant.

The Assets affected by this Section shall include: (1) all Assets of Stipulating Defendants as of the time this Order is entered; and (2) Assets obtained by Stipulating Defendants after this Order is entered if those Assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order.

Provided, however, the Individual Defendant may withdraw up to \$ 11,000 from bank accounts in the name of Justin Larsen ending in number 9231 and Allbookkeeping, LLC ending in number 4053 to satisfy upcoming personal expenses such as mortgage payments, insurance premiums, child support, vehicle payments, and utilities. Additionally, Stipulating Defendants may withdraw up to \$ 15,500 from a bank account in the name of Specialized Consulting Solutions LLC ending in number 6950 to satisfy payroll obligations of the Corporate Defendants.

IV. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person who receives actual notice of this Order (by service or otherwise) that:

(a) has held, controlled, or maintained custody, through an account or otherwise, of any Document on behalf of any Stipulating Defendant or any Asset that has been: owned or controlled, directly or indirectly, by any Stipulating Defendant; held, in part or in whole, for the benefit of any Stipulating Defendant; in the actual or constructive possession of any Stipulating Defendant; or owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Stipulating Defendant;

(b) has held, controlled, or maintained custody, through an account or otherwise, of any Document or Asset associated with credits, debits, or charges made on behalf of any Stipulating

Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities;

(c) has extended credit to any Stipulating Defendant, including through a credit card account, shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or Asset, as well as all Documents or other property related to such Assets, except by further order of this Court; provided, however, that this provision does not prohibit the Individual Defendant from incurring charges on a personal credit card established prior to entry of this Order, up to the pre-existing credit limit;

B. Deny any person access to any safe deposit box, commercial mail box, or storage facility that is titled in the name of any Stipulating Defendant, either individually or jointly, or otherwise subject to access by any Stipulating Defendant;

C. Provide Plaintiff's counsel, within **three (3) days** of receiving a copy of this Order, a sworn statement setting forth, for each Asset or account covered by this Section:

1. The identification number of each such account or Asset;
2. The balance of each such account, or a description of the nature and value of each 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Stipulating Defendant, or is otherwise subject to access by any Stipulating Defendant; and

D. Upon the request of Plaintiff's counsel, promptly provide Plaintiff's counsel with copies of all records or other Documents pertaining to each account covered by this Section or Asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.

V. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that each Stipulating Defendant, within **five (5) days** of service of this Order upon them, shall prepare and deliver to Plaintiff's counsel completed financial statements on the forms attached to this Order as **Attachment A** (Financial Statement of Individual Defendant) for the Individual Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for each Corporate Defendant.

VI. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, 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, are hereby temporarily restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, Assets, or business or personal finances of any Defendant; (2) the business practices or finances of entities directly or indirectly under the control of any Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with any other Stipulating Defendant; and

B. Failing to create and maintain Documents that, in reasonable detail, accurately, fairly, and completely reflect Stipulating Defendants' incomes, disbursements, transactions, and use of Stipulating Defendants' Assets.

VII. IMMEDIATE ACCESS TO BUSINESS RECORDS

IT IS FURTHER ORDERED that:

A. In order to preserve evidence, Plaintiff and its representatives, agents, contractors, and assistants, are authorized to access the following business records of the Stipulating Defendants for the purpose of copying or imaging these records pursuant to this Stipulated Order: (1) any email accounts used by the Stipulating Defendants to conduct activity that is the subject of the Complaint; and (2) any databases used by the Stipulating Defendants to record transactions and/or communications with customers of the Corporate Defendants.

B. Plaintiff shall provide a copy to the undersigned counsel for the Stipulating Defendants of all materials imaged or copied pursuant to Subsection VII(A) above within **seven (7) days** of completing copying, or such time as is agreed upon by Plaintiff and the Stipulating Defendants

C. The Stipulating Defendants shall within **fourteen (14) days** of receipt of the materials imaged or copied pursuant to Subsection VII(A) provide to Plaintiff all such materials

not designated privileged by the Stipulating Defendants. The production of the Stipulating Defendants' documents pursuant to this Section shall not constitute any waiver of privilege.

D. Plaintiff's access to the Stipulating Defendants' documents pursuant to this Section shall not provide grounds for any Stipulating Defendant to object to any subsequent request for documents served by Plaintiff.

VIII. DISTRIBUTION OF ORDER BY THE STIPULATING DEFENDANTS

IT IS FURTHER ORDERED that Stipulating Defendants shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of any Stipulating Defendant, and shall, within **fourteen (14) days** from the date of entry of this Order, provide Plaintiff with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendants shall not take any action that would encourage officers, agents, members, 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.

IX. EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(A)(iii), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, Plaintiff is granted leave, at any time after service of this Order, to conduct limited expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Stipulating Defendants' Assets; (2) the nature, location, and extent of Stipulating Defendants' business transactions and

operations; (3) Documents reflecting Stipulating Defendants' business transactions and operations; or (4) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. Plaintiff may take the deposition of the Stipulated Defendants and non-parties. **Forty-eight (48) hours'** notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the Federal Rules of Civil Procedure regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone or other remote electronic means;

B. Plaintiff may serve upon the Stipulating Defendants requests for production of Documents or inspection that require production or inspection within **seven (7) days** of service, provided, however, that **three (3) days** of notice shall be deemed sufficient for the production of any such Documents that are maintained or stored only in an electronic format.

C. Plaintiff may serve upon the Stipulating Defendants interrogatories that require response within **seven (7) days** after Plaintiff serves such interrogatories;

D. The Plaintiff may serve subpoenas upon non-parties that direct production or inspection within **seven (7) days** of service.

E. Service of discovery taken pursuant to this Section shall be sufficient if made by facsimile, email, or by overnight delivery.

F. Any expedited discovery taken pursuant to this Section is in addition to, and is not subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure and the Local Rules of this Court. The expedited discovery permitted by this Section does not require a

meeting or conference of the parties, pursuant to Rules 26(d) & (f) of the Federal Rules of Civil Procedure.

X. SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or FedEx, by agents and employees of Plaintiff, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any Asset or Document of any Stipulating Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

XI. CORRESPONDENCE AND SERVICE ON PLAINTIFF

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on Plaintiff shall be addressed to:

Darren H. Lubetzky
Christopher Y. Miller
Savvas S. Diacosavvas
FEDERAL TRADE COMMISSION
One Bowling Green, Suite 318
New York, NY 10004
Fax: (212) 607-2832
Email: dlubetzky@ftc.gov; cmiller@ftc.gov; sdiacosavvas@ftc.gov

XII. DURATION OF THE ORDER

IT IS FURTHER ORDERED that this Order shall expire **sixty (60) days** after the date this Order is entered by the Court, unless the Order is extended for an additional period pursuant to Fed. R. Civ. P. 65(b)(2).

XIII. RETENTION OF JURISDICTION

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

SO ORDERED, this 4 day of May, 2018


UNITED STATES DISTRICT JUDGE

Agreed to:

Attorneys for Plaintiff Federal Trade Commission



Darren H. Lubetzky
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Justin Larsen, individually and as a principal
and owner of VSM Group LLC and Specialized
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Approved as to form by



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