

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,
600 Pennsylvania Ave NW
Washington, DC 20580,

Plaintiff,

v.

ONE OR MORE UNKNOWN PARTIES
DOING BUSINESS AS AMERICAN BILL PAY
ORGANIZATION AND AMERICAN
BENEFITS FOUNDATION,

Defendant(s).

Civil Case No. 1:14-cv-01414 (RBW)

***EX PARTE* TEMPORARY RESTRAINING ORDER**

Plaintiff, Federal Trade Commission (“FTC”), has filed a complaint seeking a 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 Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. §1679h(b), and an *ex parte* motion for a temporary restraining order (“TRO”) pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Local Civil Rule 65.1. This Court has considered the complaint, the TRO motion, and all attached declarations, exhibits, and memoranda of law filed in support thereof, finds that:

1. The Court has jurisdiction over the subject matter of this case, and there is good cause to believe it will have jurisdiction over all the parties hereto;
2. There is good cause to believe that venue lies properly with the Court;
3. There is good cause to believe that the one or more unknown parties have engaged, and are likely to continue to engage, in acts or practices that violate Section 5 of the

FTC Act, 15 U.S.C. § 45, and the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j, and that the FTC is, therefore, likely to prevail on the merits of this action;

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief in the form of consumer redress and disgorgement will occur from the transfer, dissipation or concealment by Defendant(s) of their assets or business records and that consumers will suffer immediate and continuing harm unless Defendants are immediately restrained and enjoined by order of this Court, and in accordance with Fed. R. Civ. P. 65(b), the interest of justice requires that the FTC's Motion be heard *ex parte* without prior notice to Defendant(s). In addition, the identities of the Defendant(s) are currently unknown due to their active efforts at concealment. Therefore, there is good cause for relieving the FTC of the duty to provide Defendant(s) with prior notice of the FTC's motion;

5. Good cause exists for ordering Defendant(s) to provide an accounting of their business as set forth herein and permitting the FTC to take expedited discovery;

6. Weighing the equities and considering Plaintiff's likelihood of success on the merits, a temporary restraining order providing for expedited discovery and other equitable relief is in the public interest; and

7. No security is required of any agency of the United States for the issuance of a TRO. Fed R. Civ. P. 65(c).

DEFINITIONS

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

1. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes,

accounts, credits, contracts, receivables, shares of stock, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

2. “Credit repair product or service” means any service, in return for payment of money or other consideration, for the express or implied purpose of: (1) improving any consumer’s credit record, credit history, or credit rating; or (2) providing advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer’s credit record, credit history, or credit rating.

3. “Debt relief product or service” means any product, service, plan, or program represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt or obligation between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.

4. “Defendant(s)” means One or More Unknown Parties Doing Business as American Bill Pay Organization and/or American Benefits Foundation.

5. “Document(s)” is equal in scope and synonymous in meaning 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 any other data compilations from which information can be obtained. A draft or non-identical copy is a separate document within the meaning of the term.

6. “Financial institution” means any bank, savings and loan institution, credit union, or any financial depository of any kind, including but not limited to brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

7. "Person" means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.

ORDER

**I. PROHIBITED BUSINESS PRACTICES PURUSANT TO THE FEDERAL
TRADE COMMISSION ACT**

IT IS THEREFORE ORDERED that Defendant(s) and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any debt relief product or service or credit repair product or service, are hereby temporarily restrained and enjoined from misrepresenting, or assisting others in misrepresenting, either orally or in writing, expressly or by implication, any material fact, including, but not limited to:

A. That any Defendant or any other person will reduce substantially consumers' debts or improve consumers' credit ratings, scores, or limits;

B. That any Defendant or any other person is affiliated, associated, acting in partnership, or under contract with, the United States government or any agency or subdivision thereof;

C. The existence, status, or qualifications for any debt relief product or service or any credit repair product or service; or

D. That any person is eligible or qualified for, or that any person's debt or credit is eligible or qualified for, any debt relief product or service or any credit repair product or service.

II. PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE CREDIT REPAIR ORGANIZATIONS ACT

IT IS FURTHER ORDERED that Defendant(s) and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any credit repair service, are hereby temporarily restrained and enjoined from:

A. Making or using untrue or misleading representations to induce consumers to purchase their services, including, but not limited to, misrepresenting: (1) that any Defendant or any other person will improve substantially consumers' credit ratings, scores, or limits, and (2) that any Defendant or any other person is affiliated, associated, acting in partnership, or under contract with, the United States government or any agency or subdivision thereof; or

B. Charging or receiving money or other valuable consideration for the performance of any credit repair service, before such service is fully performed.

III. ORDER TO THIRD PARTIES TEMPORARILY TO DISABLE WEBSITES, BLOG, FACEBOOK WEBPAGE, AND VIDEOS

IT IS FURTHER ORDERED that, pending determination of the FTC's request for a preliminary injunction, any person or entity, including any website host, video-sharing platform, blog-publishing service, or social media host, hosting any website, blog, video, social media, or promotion shared on the Internet by or for Defendant(s) or their officers, agents, servants,

employees, or attorneys, and those persons in active concert or participation with Defendant(s), including under the name americanbillpay.org, benefitsfoundation.org, billpaymentgovernmentassistance.blogspot.com, any video shared on the Internet under the name American Bill Pay or Benefits Foundation or at the YouTube page <http://www.youtube.com/channel/UCKyyKQY99Uai6n56MuDgW7w>, or the Facebook page at <https://www.facebook.com/pages/American-Benefits-Foundation/429242070544258>, as well as any website, blog, video, or social media marketing or promotion shared on the Internet that is substantially identical in appearance to either of those websites, blog, either video found at the YouTube page listed, or the Facebook webpage listed who receive actual notice of this Order by personal service or otherwise shall:

A. Immediately take any steps necessary to ensure that any website, blog, video-sharing, or social media marketing or promotion of debt relief or credit repair services offered by the Defendant(s), including any that is operating, in whole or in part, under the names of American Bill Pay, americanbillpay.org, American Benefits Foundation, or benefitsfoundation.org, and including the blogspot article at billpaymentgovernmentassistance.blogspot.com, the YouTube channel <http://www.youtube.com/channel/UCKyyKQY99Uai6n56MuDgW7w>, and the Facebook webpage at <https://www.facebook.com/pages/American-Benefits-Foundation/429242070544258>, as well as any website, blog, video-sharing, or social media marketing or promotion on the Internet that is substantially identical in appearance to either of those websites, blog, videos found at the YouTube page listed, or the Facebook webpage listed are disabled and no longer viewable or accessible to persons using the Internet;

B. Preserve all documents related to any website, blog, video-sharing, or social media marketing or promotion of debt relief or credit repair services offered by the Defendant(s), including any that is operating, in whole or in part, under the names American Bill Pay, americanbillpay.org, American Benefits Foundation, or benefitsfoundation.org, and including the blogspot article at billpaymentgovernmentassistance.blogspot.com, the YouTube channel <http://www.youtube.com/channel/UCKyyKQY99Uai6n56MuDgW7w>, the Facebook webpage at <https://www.facebook.com/pages/American-Benefits-Foundation/429242070544258>, and any website, blog, video, or social media marketing or promotion on the Internet that is substantially identical in appearance to either of those websites, blog, videos found at the YouTube page listed, or the Facebook webpage listed; and

C. Immediately notify counsel for the FTC of any other website, blog, video-sharing, or social media marketing or promotion that is operated or controlled by or on behalf of Defendant(s).

**IV. ORDER TO THIRD PARTIES TEMPORARILY TO SUSPEND INTERNET
DOMAIN NAME REGISTRATIONS**

IT IS FURTHER ORDERED that, pending determination of the FTC's request for a preliminary injunction, any domain name registrar shall suspend the registration of americanbillpay.org or benefitsfoundation.org and shall provide immediate notice to counsel for the FTC of any other Internet domain names registered by Defendant(s) or their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendant(s) who receive actual notice of this Order by personal service or otherwise.

V. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendant(s) and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business practices, or business or personal finances, of any Defendant.

VI. LIMITED EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that the FTC is authorized to conduct certain expedited discovery, and that, commencing with the entry of this order, in lieu of the time periods, notice provisions, and requirements of Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(C), and Local Rule 26.2, and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, the FTC is granted leave to:

A. Take the deposition, on two (2) calendar days' notice, of any person, whether or not a party, in any judicial district, for the purpose of discovering relevant information relating to any Defendant's identities, assets, and/or business activities. The depositions may be conducted by phone or in person, Monday through Saturday. Deposition transcripts that have not been signed by the witness may be used at the preliminary injunction hearing in this matter. *Provided that*, notwithstanding Fed. R. Civ. P. 30(a)(2), this Section shall not preclude any further depositions by the FTC, and any deposition taken pursuant to this Section shall be in addition to,

and not subject to the presumptive limits on depositions set forth in Fed. R. Civ. P. 30(a)(2)(A);
and

B. Demand the production of documents, on five (5) calendar days' notice, including through the use of a Rule 45 subpoena, from any person, whether or not a party, relating to any Defendant's identity, assets, and/or business activities. *Provided that* two (2) calendar days' notice shall be deemed sufficient for the production of any such documents stored only as electronic data.

C. Subpoena documents immediately from any financial institution, account custodian, or other entity or person that holds, controls, or maintains custody of any account or asset of any Defendant, or has held, controlled, or maintained custody of any account or asset of any Defendant concerning the nature, location, status, and extent of any Defendant's assets, and compliance with this Order, and such financial institution, account custodian, or other entity shall respond to such subpoena within five (5) business days after service.

D. For purposes of discovery pursuant to this Section, service shall be sufficient if made by facsimile, email, or overnight courier.

VII. SERVICE UPON THE FTC

IT IS FURTHER ORDERED that for the purposes of this Order, all service on the FTC's counsel shall be performed by personal or overnight delivery, facsimile, or email to the attention of:

Nikhil Singhvi
Attorney, Division of Financial Practices
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room CC-10232
Washington, D.C. 20580
nsinghvi@ftc.gov (email)
(202) 326-3768 (facsimile)

VIII. DISTRIBUTION OF ORDER BY DEFENDANT(S)

IT IS FURTHER ORDERED that within three (3) calendar days after service of this Order, Defendant(s) shall provide a copy of this Order to each of their agents, employees, directors, officers, subsidiaries, affiliates, attorneys, independent contractors, representatives, franchisees, and all persons in active concert or participation with Defendant(s). Within five (5) calendar days following this Order, Defendant(s) shall provide the FTC with an affidavit identifying the names, titles, addresses, and telephone numbers of the persons that Defendant(s) have served with a copy of this Order in compliance with this provision.

IX. ORDER TO SHOW CAUSE AND PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65, that Defendant(s) shall appear before the Court on the 2nd day of September, 2014, at 9:30 a.m., at the United States Courthouse, 333 Constitution Ave., N.W., Washington, D.C. 20001, Courtroom _____, to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint, enjoining Defendant(s) from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Credit Repair Organizations Act, 15 U.S.C. §§1679-1679j, continuing the terms of this Order, and imposing such additional relief as may be appropriate.

X. SERVICE OF PLEADINGS, EVIDENCE, WITNESS LISTS

IT IS FURTHER ORDERED that:

A. Defendants shall file any answering affidavits, pleadings, or legal memoranda, with the Court and serve the same on counsel for the FTC no later than five (5) business days prior to the preliminary injunction hearing in this matter. The FTC may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same

on counsel for Defendant(s) no later than one (1) business day prior to the preliminary injunction hearing in this matter. *Provided that* service shall be performed by personal or overnight delivery, facsimile, or email, and documents shall be delivered so that they shall be received by the other parties no later than 4 p.m. (EST) on the appropriate dates listed in this Subparagraph;

B. The question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendant(s) during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. Live testimony shall be heard only on further order of this Court on motion filed with the Court and served on counsel for the other parties at least five (5) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit disclosing the substance of each proposed witness' expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to live testimony to be presented by another party shall be filed with this Court and served on the other parties at least three (3) business days prior to the preliminary injunction hearing in this matter. *Provided that* service shall be performed by personal or overnight delivery or by facsimile or email, and documents shall be delivered so that they shall be received by the other parties no later than 4 p.m. (EST) on the appropriate dates listed in this subsection.

XI. ACKNOWLEDGEMENT OF RECEIPT OF ORDER BY DEFENDANT(S)

IT IS FURTHER ORDERED that Defendant(s), within three (3) business days of receipt of this Order, shall submit to counsel for the FTC a truthful sworn statement acknowledging receipt of this Order.

XII. PROOF OF DISTRIBUTION OF ORDER BY DEFENDANT(S)

IT IS FURTHER ORDERED that each Defendant shall immediately provide a copy of this Order to his agents, servants, employees, consultants, any other persons or entities subject in any part to his direct or indirect control, persons with whom Defendant(s) place advertising, and person who operate websites to which Defendant(s) refer consumers. Within five (5) business days of receipt of this Order, each Defendant shall submit to counsel for the FTC a truthful sworn statement identifying those persons and entities to whom this Order has been distributed.

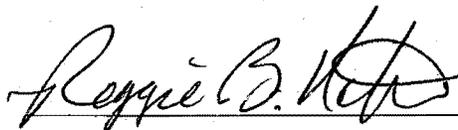
XIII. DURATION OF ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on September 2, 2014, at 9:30 o'clock (a.m.) p.m., unless within such time the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consent that it should be extended for a longer period of time.

XIV. RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 21st day of August, 2014, at _____ a.m./p.m.,
nonne pro tunc to August 19, 2014



UNITED STATES DISTRICT JUDGE