

United States District Court
District of Massachusetts
Central Division

FEDERAL TRADE COMMISSION,)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	03-40005-NMG
WILLIAM SCOTT DION, individually)	
and dba PT Resource Center and)	
PTRC, aka Don Glessner, DONALD)	
LOCKWOOD, individually and dba)	
PT Resource Center and PTRC, aka)	
DON GLESSNER, and VIVIAN)	
LOCKWOOD, individually and dba)	
PT Resource Center and PTRC,)	
Defendants.)	

PERMANENT INJUNCTION AGAINST DEFENDANTS DONALD LOCKWOOD, AKA DON GLESSNER AND VIVIAN LOCKWOOD, DBA PT RESOURCE CENTER AND PTRC

Plaintiff Federal Trade Commission ("FTC") commenced this civil action on January 8, 2003, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The FTC seeks both permanent injunctive relief and consumer redress for alleged unfair or deceptive acts or practices by Defendants in connection with the marketing of international driving permits and other identification documents. The FTC filed its original complaint against Defendant William Scott Dion ("Dion") on January 8, 2003 and this Court entered a temporary restraining order ("TRO") against Dion on January 9, 2003. That TRO was followed by a preliminary injunction against Dion on February 6, 2003.

The Amended Complaint for Injunction and Other Equitable Relief naming Defendants Donald Lockwood and Vivian Lockwood ("the Lockwood Defendants") was allowed by this Court on March 27, 2003. The Lockwood Defendants were served with the summons and amended complaint on April 1, 2003. On July 18, 2003, this Court held a hearing to determine whether the preliminary injunction should be extended to the Lockwood Defendants. On July 23, 2003, the Court allowed the FTC's motion to extend the preliminary injunction to the Lockwood Defendants and it issued a revised preliminary injunction. Now pending before the Court is the FTC's application for a default judgment pursuant to Fed. R. Civ. P. 37(d), together with supporting declarations and exhibits and a memorandum of law.

FINDINGS

The Court finds as follows:

1. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has requested and the amended complaint states a claim upon which relief can be granted.

2. This Court has jurisdiction over the subject matter of this action and has jurisdiction over the Lockwood Defendants. Venue in the District of Massachusetts is proper.

3. The activities of the Lockwood Defendants, as alleged in the amended complaint, are in or affecting commerce, as defined

in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. There is good cause to believe that the Lockwood Defendants have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. §45(a).

5. There is good cause to believe that Defendants have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

6. The Lockwood Defendants have willfully and repeatedly failed and refused to appear for their own depositions, after being served with proper notice.

7. An order rendering a judgment by default against the Lockwood Defendants for such repeated failures is an appropriate sanction and is authorized by Fed. R. Civ. P. 37(d)(1) and 37(b)(2)(C).

8. There is no just reason for delay in entering this Order.

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

DEFINITIONS

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

1. "International Driving Permit" means any document called an international driving permit, international driver's license

or any variation thereof.

2. "Identification Document" means a document made or issued by or under the authority of the United States Government, a state, a foreign government, political subdivision of a foreign government, an international government or international quasi-governmental organization which, when completed with information concerning a particular individual, is of a kind intended or commonly accepted for the purpose of identification of individuals, including, but not limited to, driver's licenses, birth certificates, social security cards, work permits, diplomas, school transcripts, identification cards and passports.

3. "False Identification Document" means any document that could reasonably be confused with an identification document.

4. "Identification Template" means any implement, impression, electronic device or computer hardware or software that is specifically configured or primarily used for making an identification document or false identification document.

5. "Assisting others" means providing any of the following goods or services to any person or entity: 1) performing customer service functions, including but not limited to receiving or responding to consumer complaints, 2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other written marketing material, including,

but not limited to, the text of any Internet website, email or other electronic communication, 3) providing names of, or assisting in the generation of, potential customers, 4) performing marketing services of any kind, 5) acting as an officer or director of a business entity, or 6) supplying an international driving permit, identification document, false identification document, identification template, or related material or information, whether denoted as a real or novelty item.

6. "Defendants" means Donald Lockwood, also known as Don Glessner, and Vivian Lockwood, individually and doing business as PT Resource Center and PTRC, their officers, directors, agents, servants, employees, attorneys, affiliates, parents or subsidiaries, successors or assigns, including but not limited to Somerset Fund, and all persons or entities directly or indirectly under their control or under common control with them.

ORDER

BAN ON CERTAIN ACTIVITIES

A. IT IS THEREFORE ORDERED that Defendants, whether acting directly or through any person or entity, and whether acting for or on behalf of any person or entity, are permanently restrained and enjoined from (A) marketing, advertising, promoting, offering for sale, manufacturing, producing, distributing, or selling any

international driving permit, or any other identification document, false identification document, identification template or related material or information, whether denoted as a real or novelty item; and (b) assisting others, through order fulfillment or otherwise, who Defendants know or consciously avoid knowing are engaged in the marketing, advertising, promotion, offering for sale, manufacturing, producing, distributing, or selling of any international driving permit, or any other identification document, false identification document, identification template or related material or information, whether denoted as a real or novelty item. Nothing in this Order shall be read as an exception to this paragraph.

PROHIBITED BUSINESS ACTIVITIES

B. IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offer for sale, or sale of any item, product, good, service, investment opportunity, business opportunity, partnership interest, trust interest or other beneficial interest, Defendants and any entity through which they do business, and their successors, assigns, officers, agents, servants, employees, attorneys, and those other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from:

1. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any international driving permit or other identification document authorizes consumers to drive legally in the United States or any other country;

2. Misrepresenting or assisting others in misrepresenting, directly or by implication, that consumers who purchase any international driving permit or other identification document may use it to avoid points for traffic violations;

3. Misrepresenting or assisting others in misrepresenting, directly or by implication, that consumers who purchase any international driving permit or other identification document may use it to avoid sanctions for driving with a suspended or revoked government-issued driver's license;

4. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any international driving permit or other identification document can be used in the United States or any other country as an identification document in the same ways a person can use a government-issued photo identification document;

5. Misrepresenting or assisting others in the misrepresenting, directly or by implication, that any international driving permit or other identification document has been issued by or under the authority of the United States

Government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or international quasi-governmental organization;

6. Misrepresenting or assisting others in misrepresenting, directly or by implication, any information relating to any holder of any international driving permit or other identification document, including, but not limited to, the identity, name, address, nationality, citizenship, or vital statistic of the holder;

7. Misrepresenting or assisting others in misrepresenting, directly or by implication, any other fact material to a consumer's decision to purchase any international driving permit or any other identification document, false identification document, identification template or related material or information, whether denoted as a real or novelty item; and

8. Misrepresenting or assisting others in misrepresenting, directly or by implication, any material fact regarding any item, product, good, or service sold or offered for sale.

CONSUMER LISTS

C. IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and all persons or entities in active concert or participation with them who receive

actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from hereafter using, selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any person who paid money to any defendant in connection with the purchase of any International Driving Permit, Identification Document, or False Identification Document, at any time prior to entry of this Order, and shall turn over the originals and copies of any such consumer information to the Plaintiff within five business days of entry of this Order; provided however, that Defendants may disclose such identifying information (i) with the express written consent of the person whose information is disclosed, (ii) to a law enforcement agency, or (iii) as required or authorized by any law, regulation, or court order.

MONETARY RELIEF

D. IT IS FURTHER ORDERED that:

1. Judgment is hereby entered against Defendants, in the amount of EIGHTY-EIGHT THOUSAND SIX HUNDRED AND SEVENTY-ONE DOLLARS AND FIFTY-FIVE CENTS (\$88,671.55), which shall be due and payable by Defendants to the Federal Trade Commission within ten days of notice of entry of this Order, by certified check or other guaranteed funds payable to and delivered to the

Commission, or by wire transfer in accord with directions provided by the Commission.

2. In partial satisfaction of said judgment, the following funds held by third parties on behalf of Defendants shall be due and payable to the Commission as follows:

a. E-Gold, Ltd. of Melbourne, Florida and Hamilton, Bermuda, shall transfer directly to the Commission, within five days of notice of entry of this Order, the total account balances held on behalf of Defendants, by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission, including but not limited to all funds held in Defendants' accounts and subaccounts, under the following account numbers and names:

- i. 100615, Donald Merle Lockwood/Donald Lockwood;
- ii. 101036, Vivian Lockwood;
- iii. 101262, Somerset Fund/Don Glessner; and
- iv. 107024, Vivian Lockwood.

To the extent that such account balances are expressed in weights of different precious metals, E-Gold, Ltd. shall transfer directly to the Commission, as provided above, the total dollar equivalent of all such account balances, calculated as of the

date of this Order.

b. Fort Davis State Bank of Fort Davis, Texas shall transfer directly to the Commission, within five days of notice of entry of this Order, the total balance of funds contained in Account Number in the name of Don Lockwood, which amount was ONE HUNDRED NINETY DOLLARS AND SIXTY-FIVE CENTS (\$190.65) as of April 21, 2003.

c. Wells Fargo Bank of Dallas, Texas shall transfer directly to the Commission, within five days of notice of entry of this Order, the total balance of funds contained in Account Number in the name of Vivian G. Lockwood, which amount was ONE HUNDRED SEVENTY-THREE DOLLARS AND SEVENTEEN CENTS (\$173.17) as of April 17, 2003.

3. The funds received by the FTC pursuant to Paragraph D shall be deposited into a fund administered by the FTC or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress funds. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Amended

Complaint. Any funds not used for such equitable relief shall be deposited to the U.S. Treasury as equitable disgorgement.

Defendants shall have no right to challenge the FTC's choice of remedies or the manner of distribution under this Paragraph D.

4. The facts as alleged in the Amended Complaint shall be taken as true in the event of any subsequent litigation to collect amounts due pursuant to this Order, including but not limited to a non-dischargeability complaint in any bankruptcy proceeding.

5. The judgment entered pursuant to this Paragraph D is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment or forfeiture.

6. Any money paid pursuant to this Order is irrevocably paid to the FTC for purposes of settlement between the FTC and Defendants, and Defendants relinquish all rights, title and interest to such money.

7. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the FTC their tax identification numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

RELEASE OF DEFENDANTS' MAIL

E. IT IS FURTHER ORDERED that, upon entry of this Order, any agent of the United States Postal Service which is detaining

mail addressed to Defendants or to any entity connected with Defendants, may deliver such mail to Defendants or return to sender, subject to the following conditions:

1. United States Postal Inspectors and other law enforcement personnel were previously authorized by this Court, pursuant to the Preliminary Injunction entered in this matter on February 6, 2003, to collect mail, unopened, that was addressed to PTRC, PT Resource Center, or any other purported driver's license or identification document company, program or service, including but not limited to such mail at the following addresses: 44 Depot Street and 44 Depot Street #5, Uxbridge, MA 01569; 15 Granite Street, Uxbridge, MA 01569; 18 Wendy Lane, Uxbridge, MA 01569; and Post Office Box 9, Mendon, MA 01756, but not mail addressed solely to William Scott Dion at 15 Granite Street, Uxbridge, MA 01569 or 18 Wendy Lane, Uxbridge, MA 01569, until further order of the Court; such detained mail is referred to hereinafter as the "detained mail."

2. Within 30 days of entry of this Order, Defendants may examine the wrapper of all detained mail then in the possession of the Postal Service. Should Defendants elect to examine the detained mail, such examination shall take place in the presence of one or more United States Postal Inspectors at the United States Post Offices in Tucson, Arizona 85742; Uxbridge,

Massachusetts and Mendon, Massachusetts, or at any other such location to which such parties agree. Portions of the detained mail that Defendants claim are not from sellers or purchasers of International Driving Permits, Identification Documents, or False Identification Documents, and are not connected with the allegations in the Amended Complaint, shall be opened in the presence of Defendants and the Postal Inspectors or their designees. To the extent these parties agree that such mail is clearly not from such sellers or purchasers and not connected with the allegations in the Amended Complaint, such mail shall be delivered to Defendants. To the extent such mail is from such sellers or purchasers or so connected, such mail shall be retained by the Postal Service, and Defendants may move the Court for release of such mail.

3. To the extent the Postal Service detains any mail after the initial examination of detained mail provided for in the preceding paragraph, Defendants may examine such mail at times mutually agreed upon by them and the aforesaid United States Postal Inspectors, but in no event after 60 days after the entry of this Order. The place and manner of such examination shall be as described in the preceding paragraph.

4. Sixty days after entry of this Order, the Postal Service, at its expense, shall promptly return to sender all

detained mail, other than the disputed mail and mail previously released to Defendants.

5. The Postal Service shall stamp all mail returned to sender as "Returned to Sender Pursuant to Court Order" or like description. In addition, the Postal Service may stamp mail returned to sender with a Postal Inspection Service and/or FTC name and/or address to which consumers may direct inquiries concerning the return of their mail.

RECORD KEEPING PROVISIONS

F. IT IS FURTHER ORDERED that, for a period of eight years from the date of entry of this Order, Defendants and any business where either Defendant is an officer, director, manager, partner or majority owner, and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons and entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

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

2. 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;

3. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

4. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and

5. Copies of any and all sales scripts, training materials, advertisements, or other marketing materials.

COMPLIANCE MONITORING

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

1. Within ten days of receipt of written notice from a representative of the FTC, Defendants 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 Defendants' possession or direct or indirect control to inspect the business operation;

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

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

b. Posing as consumers and suppliers to: Defendants, their employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice;

Provided that nothing in this Order shall limit the FTC'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)).

3. Defendants shall permit representatives of the FTC 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.

COMPLIANCE REPORTING BY DEFENDANTS

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

1. For a period of five years from the date of entry of this Order,

a. Defendants shall notify the FTC of the following:

i. Any changes in Defendants' residence, mailing addresses, and telephone numbers, within ten days of the date of such change;

ii. Any changes in Defendants' employment status (including self-employment) within ten days of the date of such change. Such notice shall include the name and address of each business that Defendants are affiliated with, employed by, or perform services for; a statement of the nature of the business; and a statement of Defendants' duties and responsibilities in connection with the business;

iii. Any changes in Defendants' names or use of any aliases or fictitious names; and

b. Defendants shall notify the FTC of any changes in corporate structure 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 corporation; 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 30 days prior to such change, provided that, with respect to any proposed change in the corporation about which Defendants learn less than 30 days prior to the date of such action is to take place, Defendants shall notify the FTC as soon as is practicable after obtaining such knowledge.

2. One hundred and eighty (180) days after the date of entry of this Order, Defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

a. Any changes required to be reported pursuant to subparagraph (1) above; and

b. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to Paragraph X;

3. For the purposes of this Order, Defendants shall, unless otherwise directed by the FTC's authorized representatives, mail all written notifications to the FTC to:

Northeast Regional Director
Federal Trade Commission
1 Bowling Green, Suite 318
New York, NY 10004

Re: FTC v. PTRC, Case No. 03-40005-NMG (D. Mass.)

4. For purposes of the compliance reporting required by this Paragraph, the FTC is authorized to communicate directly with Defendants.

DISTRIBUTION OF ORDER BY DEFENDANTS

I. IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this order:

1. Defendants shall deliver a copy of this Order to any and all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Defendants shall deliver this Order to current personnel within 30 days after the date of service of this Order, and to new personnel within 30 days after the person assumes such position or responsibilities.

2. Defendants shall deliver a copy of this Order to the principals, officers, directors, managers and employees under their control for any business that (a) employs or contracts for personal services from them and (b) has responsibilities with respect to the subject matter of this Order. Defendants shall secure from each person a signed and dated statement acknowledging receipt of the Order within 30 days after the date

of service of the Order or the commencement of the employment relationship.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

J. IT IS FURTHER ORDERED that, within five business days of receipt of this Order as entered by the Court, Defendants shall submit to the Commission a truthful sworn statement, that shall acknowledge receipt of this Order.

COOPERATION WITH PLAINTIFF

K. IT IS FURTHER ORDERED that Defendants shall cooperate fully, truthfully and completely with the Plaintiff in the continuing litigation of this matter or other matters in the future. This cooperation includes, but is not limited to, meeting Commission agents and attorneys, attending interviews, executing declarations, assisting in the preparation for testimony, and testifying fully, truthfully and completely at any deposition or trial in this or any other matter if called to do so without need for a subpoena.

RETENTION OF JURISDICTION

L. IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated: April 5, 2004