

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FEDERAL TRADE COMMISSION,

Plaintiff,

05 Civ. 2014 (RJH)

against -

MEDICAL BILLERS NETWORK, INC.,  
a New York corporation,  
CHRIS TAYLOR, individually and as an  
officer of said corporation,  
CACERES QUALITY DISTRIBUTION,  
INC., a Nevada corporation, and  
WILSON JOSE CACERES, individually and  
as an officer of said corporation,

**TEMPORARY RESTRAINING  
ORDER WITH ASSET FREEZE,  
IMMEDIATE ACCESS,  
EXPEDITED DISCOVERY, AND  
ORDER TO SHOW CAUSE  
WHY A PERMANENT  
INJUNCTION SHOULD  
NOT ISSUE**

Defendants.

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Plaintiff Federal Trade Commission ("Commission"), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), filed a Complaint for Injunctive and Other Equitable Relief, including consumer redress, and applied for a Temporary Restraining Order with Asset Freeze, Expedited Discovery, Immediate Access and an Order to Show Cause why a Preliminary Injunction should not be granted pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Court has considered the pleadings, declarations, exhibits and memoranda filed in support of the Commission's application, as well as the argument of counsel at the hearing held on February 17, 2005 and the post-hearing submission made by defendants; and makes the following findings of fact:

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

2. There is good cause to believe that Defendants Medical Billers Network, Inc. ("MBN"), Caceres Quality Distribution, Inc. ("Caceres Quality"), Chris Taylor and Wilson Jose Caceres have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 et seq. Plaintiff Commission therefore is likely to prevail on the merits of this action regarding (a) the claim of material misrepresentations at the time of sale by defendants and/or their agents as to the likely earnings of customers who purchase defendants' product (b) the claim of material misrepresentations made at the time of sale as to the names of physicians likely to employ customers who have purchased defendants' product and (c) the claim of defendants' failure to make pre-sale disclosure of defendants' refund policies.

3. Weighing the equities and considering the Commission's likelihood of success in its causes of action, this Temporary Restraining Order is in the public interest.

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

## ORDER

### Definitions

1. "Defendants" means MBN, Caceres Quality, Chris Taylor and Wilson Jose Caceres and their officers, agents, servants, employees, affiliates or subsidiaries, successors or assigns and all persons or entities directly or indirectly under their control or under common control with them, and all other persons or entities in active concert or

participation with them, who receive actual notice of this Order by personal service or otherwise including but not limited to United Career Systems at 1317 N. San Fernando Blvd. #217, Burbank, California 91504.

2. "Work-at-home business opportunity" means a plan, program, product or service represented to enable participants or purchasers to earn money while working from home.

3. "Assets" means any legal or equitable interest in, right to, claim to, or expectation to receive, any real or personal property, including, but not limited to, chattel, goods, instruments, equipment; fixtures, general intangibles, effects, leaseholds, premises, contracts, mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, lines of credit, all cash, funds and other things of value, wherever located.

4. "Financial institution" means any bank, savings and loan institution, credit union, or any financial depository of any kind, including but not limited to any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, commercial check cashing facility, or any entity or person that holds, controls or maintains custody of any account or asset of MBN, Caceres Quality, Chris Taylor and Wilson Jose Caceres, Defendants.

5. "Assisting others" means furnishing one or more of the following goods or services to a person or entity: (a) performing customer service functions, including receiving or responding to customer complaints; (b) drafting or supplying or arranging for the drafting of or supplying of a telephone sales script or other written marketing

material; (c) furnishing names of potential customers or helping collect their names; (d) performing marketing services; or (e) acting as an officer or director of a business entity.

6. "Document" is synonymous in meaning and equal in scope 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 other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably-usable form. A draft or non-identical copy is a separate document within the meaning of the term.

7. "Telemarketing," "telemarketer," "seller," and "material" are defined as in Section 310.2 of the Telemarketing Sales Rule, 16 C.F.R. § 310.2, a copy of which is attached to this Order as Attachment A.

I. Prohibited Business Activities

**IT IS THEREFORE ORDERED** that:

A. Defendants, in connection with the advertising, promotion, offering or sale of work-at-home business opportunities, are hereby temporarily restrained and enjoined from making or assisting others in making, expressly or by implication, orally or in writing, any misrepresentation of material fact, including, but not limited to:

1. Falsely representing that purchasers of Defendants' work-at-home employment opportunities are likely to earn a substantial income, such as \$500 or more per week; and
2. Falsely representing that Defendants will give purchasers the names and addresses of physicians who are likely to use the purchasers to process the physicians' medical claims.

B. Defendants are hereby restrained and enjoined from violating or assisting others in violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, in the course of offering for sale and selling work-at-home business opportunities through telemarketing including, but not limited to:

1. Misrepresenting, directly or by implication, material aspects of the performance, efficacy, nature or central characteristics of goods or services as set forth by Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii) including, but not limited to misrepresenting that: (1) consumers who pay Defendants a fee are likely to earn a substantial level of earnings, such as \$500 per week, from Defendants' work-at-home business opportunity; and (2) Defendants will give purchasers the names and addresses of physicians who are likely to use the purchasers to process the physicians' medical claims; and

2. Failing to disclose, before a customer pays for any work-at-home business opportunity, all material terms and conditions of any refund, cancellation, exchange or repurchase policy, or any policy of not making refunds, cancellations, exchanges or repurchases, as required by Section 310.3(a)(1)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(1)(iii).

II. Financial Reports

**IT IS FURTHER ORDERED** that the Defendants, on or before February 21, 2005, shall prepare and deliver to the Court and counsel for the Commission, completed financial statements on the forms attached to this Order as Attachments C and D, for themselves individually and for each business entity (whether or not incorporated) under

which they conduct business, or of which they are an officer, and for each trust of which they are a trustee. The financial statements shall be accurate as of the date of entry of this Order.

**III. Identifying Information Relating To Accountants, Financial Planners, Investment Advisors, Stock Brokers And Others.**

**IT IS FURTHER ORDERED** that the Defendants, on or before February 21, 2005, shall provide counsel for the Commission: (1) the name, address and telephone number for each accountant, financial planner, investment advisor, stock broker or other individual, corporation or partnership whom they hired for personal advice or services, including, but not limited to, preparation of tax returns and investment advice, since January 1, 2001, and (2) the name, address and telephone number for each accountant, financial planner, investment advisor, stock broker or other individual, corporation or partnership who was hired on behalf of the Defendants since January 1, 2001.

**IV. Preservation Of Records**

**IT IS FURTHER ORDERED** that Defendants are hereby temporarily restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of Defendants; and

B. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, contracts, agreements,

customer files, customer lists, customer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, training material, sales presentations, documents evidencing or referring to Defendants' products or services, data, computer tapes, disks or other computerized records, books, written or printed records, handwritten notes, telephone logs, "verification" or "compliance" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind, including electronically-stored materials, that relate to the business practices or businesses or personal finances of Defendants or other entities directly or indirectly under the control of Defendants.

V. Record Keeping/Business Operations.

**IT IS FURTHER ORDERED** that the Defendants are hereby temporarily restrained and enjoined from:

Failing to create and maintain documents that were kept by Defendants in the ordinary course of business prior to the date of this Order.

VI. Distribution Of Order By Defendants.

**IT IS FURTHER ORDERED** that each Defendant shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, spouse and representative of the Defendants, and shall, within ten (10) days from the date of entry of this Order, provide counsel for the Commission with a sworn statement that each

Defendant has complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of this Order.

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(1), any consumer-reporting agency may furnish a consumer report concerning the Defendants to Plaintiff Commission.

VIII. Limited Expedited Discovery

**IT IS FURTHER ORDERED** that in connection with the pending preliminary injunction hearing, Plaintiff is granted leave at any time after service of this Order, and pursuant to Fed. R. Civ. P. 30, to:

A. Take the deposition, on three (3) days' notice, of any person or entity for the purpose of discovery regarding the claims raised in the complaint.

B. Demand the production of documents, on three (3) days notice, from any person or entity, whether or not a party, relating to the claims raised in the complaint.

Defendants shall respond to any requests for admission, pursuant to Fed. R. Civ. P. 36, within five (5) business days after service of the request.

*Provided that*, in the event that any of Defendants' documents or records have been removed from Defendants' premises by, and are in the possession of another law enforcement or investigative agency, the Commission may have access to such documents for the purposes of inspection, indexing and copying, subject to the agency consenting to access by the Commission.



IX. Service Of Pleadings.

**IT IS FURTHER ORDERED** that the Defendants shall serve all memoranda, affidavits and other evidence on which they intend to rely at the Preliminary Injunction hearing set in this matter not later than noon on February 25, 2005. Service on the Commission shall be performed by personal delivery to Ronald L. Waldman, Federal Trade Commission, Suite 318, New York, NY 10004. The Commission shall be permitted a supplemental filing or reply which shall be served on Defendants no later than noon on February 28, 2005.

X. Witness Identification

**IT IS FURTHER ORDERED** that, if any party to this action intends to present the testimony of any witness at the hearing on a Preliminary Injunction in this matter, that party shall, no later than noon on February 25, 2005, file with this Court and serve on all parties a statement disclosing the name, address and telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit revealing the substance of such witness' expected testimony. Service on the Commission shall be performed by a personal delivery to Ronald L. Waldman, Federal Trade Commission, Suite 318, New York, NY 10004.

XI. Duration Of Temporary Restraining Order.

**IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein shall expire on February 28, 2005 at 8:00 p.m., unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

XII. Order To Show Cause Re: Preliminary Injunction.

**IT IS FURTHER ORDERED**, pursuant to Federal Rule of Civil Procedure 65(b), that the Defendants shall appear before this Court on the 28<sup>th</sup> day of February, 2005, at 5:00 p.m., to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the TSR, and imposing such additional relief as may be appropriate.

**XIII. RETENTION OF JURISDICTION**

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

**SO ORDERED**, this 18<sup>th</sup> day of February, 2005, at 7:00 a.m.

  
United States District Court Judge