

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 06-61429-Civ-Altonaga

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JUAN MATOS, individually and
doing business as QTX,
and BELINDA CURE,

Defendants.

**STIPULATED PRELIMINARY INJUNCTION AGAINST JUAN MATOS,
INDIVIDUALLY AND DOING BUSINESS AS QTX**

The Federal Trade Commission (“FTC”) commenced this action on September 21, 2006. On September 26, 2006, this Court entered a temporary restraining order (“TRO”) with other equitable relief and an order to show cause why a preliminary injunction should not be issued against defendants Juan Matos, individually and doing business as QTX, and Belinda Cure.

FINDINGS

By stipulation of the parties, the Court finds as follows:

1. The FTC and Defendant Juan Matos, appearing *pro se*, have stipulated and agreed to the entry of this preliminary injunction order (“Order”) without any admission of wrongdoing or violation of law, and without a finding by the Court of law or fact other than stated below.
2. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over all the parties hereto, and venue in this district is proper.

3. The FTC contends that there is good cause to believe that defendants have engaged in deceptive acts or practices in violation of Section 5 of the FTC Act by making numerous materially deceptive representations in their marketing and selling of work-at-home business opportunities. These misrepresentations include statements that consumers are likely to earn a substantial level of earnings, such as \$500 per week, assembling products at home for QTX. The FTC also contends that QTX fails to disclose to consumers before they pay \$110 to purchase the work-at-home business opportunity that QTX will send product assembling materials to consumers and pick up completed products only after consumers complete a sample product and send it to QTX. Additionally, the FTC contends that defendants have violated the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii), by misrepresenting a material aspect of the performance, efficacy, nature, or central characteristics of their work-at-home business opportunity. The FTC contends that there is good cause to believe that defendants will continue with such illegal actions if not restrained from doing so by Order of this Court;

4. The FTC contends that there is good cause to believe that immediate and irreparable damage will result from the defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii), unless the defendants are restrained and enjoined by Order of this Court;

5. The FTC's complaint states a claim upon which relief may be granted against Defendant under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii).

6. Defendant waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order.

7. As an agency of the United States, the FTC need not post a security for the issuance of a preliminary injunction. Fed.R.Civ.P. 65.

8. Weighing the equities and considering the Commission's substantial likelihood of success on the merits, this order is in the public interest.

DEFINITIONS

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

A. "Defendant" means Juan Matos, individually and doing business as QTX.

B. "Document(s)" or "record(s)" means

1. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and

2. Any information stored on any desktop personal computer ("PC") and workstations, laptops, notebooks, and other portable computers, whether assigned to individuals or in pools of computers available for shared use; and home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by Defendant's participating associates, which may include persons who are not employees of the company or who do not work on company premises.

C. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables, funds, monies, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

D. "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 any Defendants.

E. "Work-at-home business opportunity" means any program, plan, product or service that enables or purports to enable a participant or purchaser to earn money by working at home.

F. "Telemarketing" means any plan, program or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) that is conducted to induce the purchase of goods or services by means of the use of one or more telephones.

PROHIBITED CONDUCT FOR WORK-AT-HOME BUSINESS OPPORTUNITIES

I. IT IS THEREFORE ORDERED that:

A. Defendant and his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, any false or misleading oral or written

statement or representation in connection with the advertising, marketing, promotion, offering for sale, distribution, or sale of work-at-home business opportunities, including but not limited to:

1. Misrepresenting, directly or by implication, that consumers who pay Defendant a fee are likely to earn a substantial level of earnings, such as \$500 per week, assembling products at home for Defendant;
2. Misrepresenting, directly or by implication, that in exchange for a fee, Defendant will send product materials to consumers and pick up completed products for pay;
3. Failing to disclose, in a clear and conspicuous manner, that Defendant requires consumers to complete a sample product and send it to Defendant for approval;
4. Misrepresenting any assistance they will provide to consumers in furtherance of any work-at-home business opportunity; and
5. Misrepresenting any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer.

B. Defendant and his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each of them, 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 characteristic of goods or services including, but not limited to, misrepresenting that consumers who pay Defendant a fee are likely to earn a

substantial level of earnings, such as \$500 per week, assembling products at home for Defendant;
and

2. Failing to disclose, in a clear and conspicuous manner, all material terms and conditions of any refund, cancellation, exchange or repurchase policy.

PROHIBITED BUSINESS ACTIVITIES

II. IT IS FURTHER ORDERED that Defendant and his officers, successors and assigns, agents, servants, employees, and all other persons or entities, whether acting directly or through any business entity, corporation, subsidiary, division or other device including all other persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, each are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, any false or misleading oral or written statement or representation in connection with the advertising, marketing, promotion, offering for sale, distribution, or sale of any good or service, including but not limited to misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any item, product, good, or service.

FINANCIAL REPORTS AND ACCOUNTING

III. IT IS FURTHER ORDERED that, to the extent not already produced pursuant to the terms of the Temporary Restraining Order, Defendant shall immediately:

A. Prepare and serve on the FTC a complete and accurate individual or corporate financial statement, as applicable, signed under penalty of perjury, on the forms attached to this Order as Attachments A and B, respectively;

B. For all work-at-home business opportunities advertised, marketed, promoted,

offered for sale, distributed, or sold by Defendant, provide the FTC with a completed statement, verified under oath reporting:

1. All revenues collected and obtained by Defendant, directly or through any other corporation, partnership, limited liability corporation, or other entity;
2. The total number of units of each work-at-home business opportunity sold;
3. The full names, addresses, and telephone numbers of all purchasers of each such work-at-home business opportunity.
4. The amount of all refunds provided by Defendant to consumers, directly or through any other corporation, partnership, limited liability corporation, or other entity;
5. All costs and expenses incurred by Defendant, directly or indirectly; and
6. All net profits collected and obtained by Defendant, directly or indirectly.

EXPEDITED DISCOVERY

IV. IT IS FURTHER ORDERED that the FTC is granted leave to conduct certain expedited discovery, and that, commencing with the time and date of this Order, in lieu of the time periods, notice provisions, and other requirements of Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, and S.D. Fla. L.R. 26.1, expedited discovery as to parties and non-parties shall proceed as follows:

A. The FTC may, upon two business days notice, take the deposition of any person or entity, whether or not a party, for the purpose of discovering (1) the nature, location, status, and extent of assets of Defendants or their affiliates or subsidiaries; (2) the nature and location of documents reflecting the business transactions of Defendants or their affiliates or subsidiaries; and (3) compliance with this Order. Such depositions may be taken Monday through Friday.

Provided that, notwithstanding Fed. R. Civ. P. 30(a)(2), this Subparagraph shall not preclude any future depositions by the FTC. *Provided further*, that any deposition taken pursuant to this subparagraph 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 S.D. Fla. L.R. 26.1. Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery.

B. The FTC may, upon five business days notice, demand the production of documents from any person or entity, whether or not a party, relating to (1) the nature, status, extent, or location of assets of Defendant or his affiliates or subsidiaries; (2) the nature and location of documents reflecting the business transactions of Defendant or his affiliates or subsidiaries; and (3) compliance with this Order. *Provided* that two days notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

C. The FTC is granted leave to 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 Defendant's assets, and compliance with this Order, and such financial institution, account custodian or other entity shall respond to such subpoena within five business days after service. For purposes of this subsection, the FTC may serve any such subpoena by facsimile or overnight courier.

RECORD KEEPING PROVISIONS

V. **IT IS FURTHER ORDERED** that Defendant and any entity through which he does

business, and his successors, assigns, officers, agents, servants, employees, and those other persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from:

A. 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, scripts, documents evidencing or referring to Defendant's products, 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 business or personal finances of any Defendant or other entity directly or indirectly under the control of any Defendant; and

B. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use of monies by Defendant or other entity directly or indirectly under the control of Defendant.

COMPLIANCE MONITORING

VI. IT IS FURTHER ORDERED that, for purposes of monitoring compliance with any provision of this Order, the FTC is authorized to pose as customers or potential customers of

Defendant, his employees, or any other entity managed or controlled in whole or in part by any of them without the necessity of identification or prior notice.

NOTICE TO EMPLOYEES

VII. IT IS FURTHER ORDERED that Defendant shall immediately provide a copy of this Order to each of his corporations, subsidiaries, affiliates, and participating associates. Within ten calendar days following service of this Order by the FTC, Defendant shall provide the FTC with an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities that Defendant has served with a copy of this Order in compliance with this provision.

CREDIT REPORTS

VIII. IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), the FTC is authorized to request a credit report and any credit reporting agency receiving such request shall furnish a credit report concerning any Defendant to the FTC.

CORRESPONDENCE WITH PLAINTIFF

IX. IT IS FURTHER ORDERED that, for the purposes of this Order, all service on and correspondence to the FTC shall be addressed to: Laura Schneider, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room NJ-2122, Washington, DC 20580. Telephone: (202) 326-2604; Facsimile: (202) 326-2558.

SERVICE OF THIS ORDER

X. IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, email transmission, personal or overnight delivery, or U.S. Mail, by agents and employees of the FTC or any state or federal law enforcement agency, or by private process

server, on (1) Defendant, (2) any financial institution, 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, or (3) any other person or entity that may be subject to any provision of this Order.

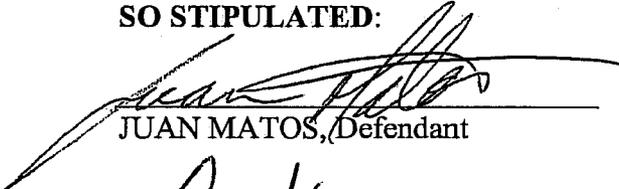
**ACKNOWLEDGMENT OF RECEIPT OF STIPULATED PRELIMINARY
INJUNCTION BY DEFENDANT**

XI. **IT IS FURTHER ORDERED** that, within five business days after receipt by Defendant of this Order, as entered by the Court, Defendant must submit to the Plaintiff at the address set forth herein, a sworn statement that acknowledges receipt of this Order.

RETENTION OF JURISDICTION

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

SO STIPULATED:



JUAN MATOS, Defendant



LAURA SCHNEIDER
ELSIE KAPPLER
Federal Trade Commission
Attorneys for Plaintiff

SO ORDERED this 30 day of October, 2006 at 9:45 a.m.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA