

Sealed

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
Case No. 07-CV-61152

2007 AUG 16 AM 10:49  
CLARENCE J. ...  
CLERK U.S. DIST. CT.  
S.D. OF FL.-MIAMI

FEDERAL TRADE COMMISSION,	)
	)
	)
Plaintiff,	)
	)
v.	)
	)
INTEGRITY MARKETING TEAM, INC.,	)
a Florida Corporation doing	)
business as Home Business System;	)
	)
BYRON PETERSON, an individual doing	)
business as Home Business System;	)
and	)
	)
MIN SUNG KIM, an individual doing business	)
as Home Business System, and as an	)
officer of Integrity Marketing Team, Inc.;	)
	)
Defendants.	)

**TEMPORARY RESTRAINING  
ORDER WITH ASSET FREEZE  
AND OTHER EQUITABLE RELIEF**

Plaintiff Federal Trade Commission ("FTC" or "Commission"), having filed its Complaint for Injunction and Other Relief in this matter pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a) and 53(b), and having moved *ex parte* for a Temporary Restraining Order ("TRO") pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the Complaint, declarations, exhibits and memorandum of law filed in support thereof, and now being advised in the premises, finds that:

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

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2. The Complaint states a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b);

3. Venue properly lies with this Court;

4. There is good cause to believe that Defendants Integrity Marketing Team, Inc., Byron Peterson, and Min Sung Kim, doing business as Home Business System (“HBS”), 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), and that the Commission is likely to prevail on the merits of this action;

5. There is good cause to believe that immediate and irreparable harm will result from Defendants’ ongoing violations of Section 5(a) of the FTC Act unless Defendants are restrained and enjoined by order of this Court. The evidence set forth in the Commission’s *Ex Parte* Motion for Temporary Restraining Order With Asset Freeze and Other Equitable Relief, and in the accompanying declarations and exhibits, shows that the Commission is likely to prove that Defendants have engaged in a concerted course of illegal activity in connection with the sale of envelope stuffing opportunities nationwide, in violation of the FTC Act. Thus, there is good cause to believe that Defendants will attempt to conceal the scope of their illegal actions to avoid returning their ill-gotten gains to consumers injured by their unlawful practices if not restrained from doing so by this Court;

6. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for consumers in the form of monetary restitution, will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets and records unless Defendants are immediately restrained and enjoined by order of this Court;

7. Good cause exists for ordering Defendants to provide an accounting of their business as set forth herein;

8. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b) and for relieving the Plaintiff of the duty to provide Defendants with prior notice of the Plaintiff's motion. The Commission has not provided notice to Defendants due to the likelihood that advance notice of this action will lead to the same irreparable harm, including the dissipation of assets and destruction of evidence, that the Commission seeks to prevent through its application for an ex parte temporary restraining order. The Commission's request for this emergency ex parte relief is not the result of any the lack of any diligence on the part of the Commission, but is instead based on the nature of the Defendants' unlawful conduct. Thus, there is good cause for relieving the Commission of the duty to provide Defendants with prior notice of the Commission's application.

9. Weighing the equities and considering the Commission's likelihood of success in this cause of action, this Order is in the public interest; and

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

#### **DEFINITIONS**

1. "Asset" or "Assets" means all real or personal property of Defendants, or held for the benefit of any Defendant, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code), and all chattels, leaseholds, contracts, mail or other deliveries, lists of consumer names, shares of stock, accounts, credits, receivables, and cash, wherever

located.

2. **“Defendants”** means Defendants Integrity Marketing Team, Inc., Byron Peterson, and Min Sung Kim, and each of them, doing business as “Home Business System,” or by whatever name each might be known.

3. **“Document”** is synonymous in meaning and equal in scope to the term, as defined 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 this term.

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, or precious metal dealer.

5. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

6. **“Work-at-home Opportunity”** means any program, plan, product, or service that claims to enable a participant or purchaser to earn money by working at home.

**ORDER**

**I. PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that, in connection with the advertising, promotion, offering for sale, sale or provision of any goods or services, including but not limited to offers for sale of any work-at-home opportunity, Defendants, as well as their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, branches or business divisions, and all other persons or entities in active concert or participation with them who received actual notice of the Order by personal service of otherwise, whether acting directly or through any corporation, subsidiary, division or other entity, are hereby temporarily restrained and enjoined from making or assisting in the making of, expressly or by implication, orally or in writing, any false or misleading statement or representation of material fact, including but not limited to:

- A. That consumers are likely to make a substantial amount of money by participating in Defendants' envelope stuffing opportunity;
- B. That Defendants will pay consumers who participate in Defendants' envelope stuffing opportunity for each envelope they stuff;
- C. About the nature of any work-at-home opportunity product or service offered or sold; and
- D. About any material term, condition, or limitation of the transaction or about the use of any offered good or service.

## II. ASSET FREEZE

**IT IS FURTHER ORDERED** that Defendants, as well as their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, branches or business divisions, and all other persons or entities in active concert or participation with them who received actual notice of the Order by personal service of otherwise, whether acting directly or through any corporation, subsidiary, division or other entity, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, automobiles, accounts, contracts, consumer lists, coins, precious metals, artwork, shares of stock, uncashed checks, or other assets, wherever located, that are: (1) owned or controlled by any Defendant in whole or in part; (2) in the actual or constructive possession of any Defendant; (3) held by an agent of any Defendant as a retainer for the agent's provision of services to any Defendant; or (4) owned, controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership or other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any assets held for, on behalf of, for the benefit of, or by Defendants, or their affiliates or subsidiaries, at any bank or savings and loan institution, credit card processing agent or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, merchant account processor, or other financial institution or organization of any kind, including without limitation any assets at Bank of America.

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

C. Incurring charges or cash advances on any credit or debit card issued in the name of any Defendant;

D. Obtaining a personal or secured loan; and

E. Incurring liens or other encumbrances on real property, personal property, or other asset held in the name, individually or jointly, of any Defendant.

*Provided further*, that the assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order, including, without limitation, those acquired by loan or gift, and assets in the form of retainers paid to Defendants' agents as compensation for the provision of services to any Defendant. Defendants, or any third party holding assets for the benefit of any Defendant, shall hold all assets, including without limitation, payments, loans, and gifts received after service of this Order. Notwithstanding the asset freeze provisions of Section II. A - E, above, Defendants may pay reasonable, usual, ordinary, and necessary living expenses, and reasonable attorneys fees after obtaining prior written approval by the Commission or by the Court.

### **III. DISABLEMENT OF DEFENDANTS' WEB SITES**

**IT IS FURTHER ORDERED** that, pending determination of the Commission's request for a preliminary injunction, Defendants, as well as their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, branches or business divisions, and all other persons or entities in active concert or

participation with them who received actual notice of the Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other entity, including, but not limited to any individual or entity hosting any Web site or Web pages for any Defendant shall:

A. Immediately take whatever steps may be necessary to ensure that Web sites or Web pages operated under the name www.usmailinggroup.com and Web sites or Web pages operated or controlled in whole or in part by any Defendant that contain representations that violate Section I. of this Order cannot be accessed by the public;

B. Prevent the destruction or erasure of Web sites or Web pages operated under the name www.usmailinggroup.com and Web sites or Web pages operated or controlled in whole or in part by any Defendant that contain representations that violate Section I. of this Order, by preserving such Web sites or Web pages in the format in which they are currently maintained; and

C. Immediately notify FTC counsel of all Web sites or Web pages operated or controlled in whole or in part by any Defendant.

#### **IV. DUTIES OF ASSET HOLDERS**

**IT IS FURTHER ORDERED** that any financial or brokerage institution, escrow agent, money market or mutual fund, title company, commodity trading company, common carrier, storage company, trustee, commercial mail receiving agency, merchant account processor, mail holding or forwarding company, creditor or credit card issuer, or any other person or entity having possession, custody or control of any assets or records of any Defendant, or of any account, safe deposit box, or other asset of any Defendant, or held on behalf of or for the benefit of any Defendant, at any time since January 1, 2004, shall:

A. Hold and retain within its control and prohibit the transfer, encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale or other disposal of any such account or other asset, except for transfers or withdrawals directed by further order of this Court;

B. Deny any person or entity access to any safe deposit box titled in the name of any Defendant or otherwise held for the benefit of or subject to access by any Defendant;

C. Provide to counsel for the Commission, within five (5) business days of notice of this Order (unless extended by written Court order), a sworn statement setting forth:

1. The identification number of each account or asset titled in the name of any Defendant, or held on behalf of, or for the benefit of any Defendant;
2. The balance of each account or a description of the nature and value of each asset as of the close of business on the day this Order is served, and, if the account or asset has been closed or moved, 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 or storage facility that is either titled in the name of or subject to access by any Defendant.

D. Upon the request by the Commission, promptly (but in no event more than five (5) business days, unless extended by written Court order) provide the Commission with copies of all records or other documentation pertaining to each such account or asset, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. For the purposes of this

Section, the Commission may properly serve this Order on any financial or brokerage institution, business 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 at any time since January 1, 2004, by facsimile transmission, hand delivery or overnight carrier.

**V. ACCOUNTING PROVISIONS**

**IT IS FURTHER ORDERED** that Defendants shall, within forty-eight (48) hours of service of this Order (unless extended by written Court order), prepare and provide to counsel for the Commission:

A. A completed financial statement accurate as of the date of service of this Order upon each Defendant which shall include all financial information as requested by (1) the Financial Statement of Individual Defendant, appended as **Attachment A**, for himself and for each business under which he conducts his business, regardless of the form of the business organization, or of which he is an officer or member, and for each trust of which he is a trustee; and (2) the Financial Statement of Corporate Defendant, appended as **Attachment B**, as applicable. The financial statements shall be accurate as of the date of entry of this Order and shall be verified under oath;

B. A full accounting of all assets and documents that are located inside or outside of the territory of the United States of America and are held by or for each Defendant or are under their direct or indirect control, jointly, severally, or individually; and

C. The name, address and telephone number of each accountant, financial planner, investment advisor, stock broker or other individual, corporation or partnership whom each Defendant hired for financial, business or tax advice or services, since January 1, 2004.

**VI. REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS**

**IT IS FURTHER ORDERED** that, within five (5) business days following service of this Order (unless extended by written Court order), Defendants shall:

- A. Repatriate to the United States all funds, documents or assets in foreign countries held either: (1) by any Defendant; (2) for the benefit of any Defendant; or (3) under the direct or indirect control, jointly or individually, of any Defendant;
- B. The same business day as any repatriation, (1) notify counsel for the Commission of the name and location of the financial institution or other entity that is the recipient of such funds, documents or assets; and (2) serve this Order on any such financial institution or other entity;
- C. Provide the Commission with a full accounting of all funds, documents, and assets outside of the territory of the United States held either: (1) by any Defendant; (2) for the benefit of any Defendant; or (3) under direct or indirect control, jointly or singly, of any Defendant; and
- D. Provide the Commission with access to all records of accounts or assets of any Defendant held by financial institutions whether located outside the territorial United States or otherwise by signing the Consent to Release of Financial Records attached to this Order as **Attachment C**.

**VII. INTERFERENCE WITH REPATRIATION**

**IT IS FURTHER ORDERED** that Defendants are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by the preceding Section of this Order, including but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, or telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time as all assets have been fully repatriated pursuant to the preceding Section of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time as all assets have been fully repatriated pursuant to the preceding Section of this Order.

#### **VIII. CUSTOMER SALES INFORMATION**

**IT IS FURTHER ORDERED** that, within five (5) days from service of this Order upon them, Defendants and any other person or entity served with a copy of this Order, shall provide to Plaintiff a complete and accurate statement providing the names, addresses and telephone numbers of each purchaser of a work-at-home envelope-stuffing opportunity sold by Defendants, whether directly by any Defendant or by a third party, since January 1, 2004, the total dollar amount of money received from each customer, and the total dollar amount of any refund provided to each customer.

#### **IX. CREDIT REPORTS**

**IT IS FURTHER ORDERED** that the Commission may obtain credit reports concerning each Defendant pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that upon written request, any credit reporting agency from which such report is requested shall provide it to the Commission.

**X. RECORD KEEPING/MAINTAINING BUSINESS RECORDS**

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

A. Failing to create and maintain 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, fairly and completely reflect their incomes, disbursements, transactions, and dispositions of the assets of the Defendants; and

B. Destroying, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, any books, records, tapes, discs, accounting data, checks (fronts and backs), correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form, in their possession, custody, or control that relate to the business practices or business or personal finances of Defendants from January 1, 2004, to the present.

**XI. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that each Defendant shall immediately provide a copy of this Order to each affiliate, partner, division, sales entity, successor, assignee, officer, director, employee, independent contractor, spouse, Internet web host or master, agent, attorney, and/or representative of Defendant and shall, within ten (10) days from the date of entry of this Order, serve upon counsel for the Commission a sworn statement that Defendant has complied with this provision of this Order, which statement shall include the names and addresses of each such person or entity who has received a copy of the Order.

**XII. SERVICE OF ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution or entity shall effect service upon the entire financial institution or entity.

Plaintiff's agents or employees may serve this Order upon each Defendant or other person that may be subject to any provision of this Order by serving a copy personally or by first class mail, overnight delivery, facsimile or electronic mail.

**XIII. RETENTION OF MAIL**

**IT IS FURTHER ORDERED** that any person, entity, or commercial mail receiving agency where any Defendant maintains accounts shall, for the duration of this Order, retain and forward to Plaintiff, at the address listed in Section XV., below, all mail received that is addressed to Defendants, including Home Business System, Integrity Marketing Team, Inc., usmailinggroup.com, Process Center, Byron Peterson, and Min Sung Kim, and/or addressed to any other name under which Defendants do business.

**XIV. ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED**, that the parties shall appear before this Court for a status conference on the 17<sup>th</sup> day of August, 2007, at 10:45 a.m. at the United States Courthouse, 99 N.E. Fourth Street, 10<sup>th</sup> Floor, Courtroom 6, Miami, Florida. Counsel may appear by telephone for the status conference. Plaintiff's counsel is to place and arrange the call through a

commercial carrier (e.g. AT&T or MCI operator) to Chambers at (305) 523-5520, with Defendants' counsel already on the line, at the above-noted time.

IT IS FURTHER ORDERED that a hearing on the Commission's request for a preliminary injunction, pending final ruling on the Complaint against said Defendants enjoining them from further violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), continuing the freeze of their assets, and imposing such additional relief as may be appropriate will be held on **Thursday, August 23, 2007 at 11:00 a.m.** before the Honorable Paul C. Huck, United States District Judge, 99 N.E. Fourth Street, 10<sup>th</sup> Floor, Courtroom 6, Miami, Florida. Counsel may appear by telephone for the hearing. Plaintiff's counsel is to place and arrange the call through a commercial carrier (e.g. AT&T or MCI operator) to Chambers at (305) 523-5520, with Defendants' counsel already on the line, at the above-noted time. Defendants shall file with the Court and serve on counsel for the Commission answering pleadings or materials by 1:00 p.m. on the day prior to the hearing on the Commission's request for a preliminary injunction.

**XV. CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF**

**IT IS FURTHER ORDERED** that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Paul K. Davis, Esq.  
Barbara E. Bolton, Esq.  
Federal Trade Commission  
225 Peachtree Street, Suite 1500  
Atlanta, Georgia 30303  
(404) 656-1354 (Davis)  
(404) 656-1362 (Bolton)  
(404) 656-1379 (facsimile)

Notice may be provided by email to [pdavis@ftc.gov](mailto:pdavis@ftc.gov) or [bbolton@ftc.gov](mailto:bbolton@ftc.gov).

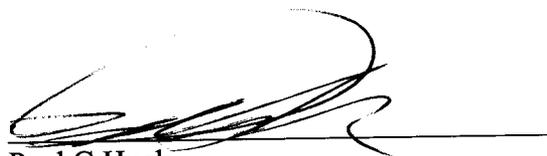
**XVI. DURATION OF TEMPORARY RESTRAINING ORDER**

**IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein shall expire at 3:00 p.m., on Thursday, August 23, 2007, unless, for good cause shown, the Temporary Restraining Order is extended or unless the Defendant consents that it should be extended for a longer period of time.

**XVII. RETENTION OF JURISDICTION**

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

**IT IS SO ORDERED**, in Chambers, Miami, Florida, this 15<sup>th</sup> day of August, 2007.



Paul C Huck  
United States District Judge