

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	Case No. 07 C 0529
v.	)	
	)	Judge Norgle
SELECT PERSONNEL MANAGEMENT, INC., <i>et al.</i> ,	)	
Defendants.	)	Magistrate Judge Cole
	)	

**APPLICATION FOR ENTRY OF ORDER FOR PERMANENT INJUNCTION  
AND FINAL DEFAULT JUDGMENT**

Plaintiff, the Federal Trade Commission (“Plaintiff” or “FTC”), respectfully requests that the Court enter an order for permanent injunction and final default judgment, including an order for seven million, eight hundred fifty-two thousand, seven hundred ninety-five United States Dollars (\$7,852,795 USD) in equitable monetary redress, against all Defendants. As described more fully below, all nine Defendants are in default. Seven Defendants failed to plead, otherwise defend, or even appear.<sup>1</sup> Two initially answered the Amended Complaint through their former counsel, but one is now an unrepresented corporation and the other is an unrepresented individual whom the Court found in default for failing to obey its orders.<sup>2</sup> The \$7,852,795 USD amount of the final judgment requested by Plaintiff is Defendants’ net sales (*i.e.*, total sales minus refunds) from their unlawful activities established by Defendants’ own

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<sup>1</sup> Those Defendants are: Select Personnel Management, Inc., 1402473 Ontario Limited, 2105635 Ontario Limited, Special T Services Group Inc., United Registration Services, Inc., James Stewart (“Stewart”), and Philip J. Richards (“Richards”) (collectively, “Non-Pleading Defendants”).

<sup>2</sup> The two Defendants who answered the Complaint are: 1489841 Ontario Inc. (“148 Ontario”) and Luigi Paulozza (“Paulozza”) (collectively, “Pleading Defendants”).

sales records, which were obtained pursuant to Canadian search warrants. (See Plaintiff's Exhibit ("PX") 33, Krause ¶¶ 7, 8, Att. A).<sup>3</sup> Granting this application will resolve this case.

## **I. PROCEDURAL BACKGROUND**

On January 29, 2007, the FTC filed its Complaint against Select Personnel Management, Inc., and James Stewart. That same day, this Court considered exhibits submitted by the FTC and issued a temporary restraining order halting Defendants' operations.

Select Personnel Management, Inc., and Stewart failed to respond to the Complaint, or even to appear. The Court issued a preliminary injunction, without opposition, and has since found them in default. The Court found that the Commission was likely to prevail on the merits and, after weighing the equities and considering the Commission's likelihood of success, issued the preliminary injunction, including an asset freeze and other relief.

On August 18, 2008, after Plaintiff was able to obtain additional evidence from domestic and Canadian sources, the FTC filed its First Amended Complaint adding five corporations and two individuals, Paulozza and Richards, as Defendants. None of the Defendants served an answer or responsive pleading or otherwise defended the Complaint. On October 31, 2008, the Court entered default against all the Defendants added by the Amended Complaint.

On November 5, 2008, an attorney appearance and an answer were filed on behalf of Defendants 148 Ontario and Paulozza. On November 14, 2008, the Court granted a motion by

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<sup>3</sup> The PX numbers continue the sequential numbering used by Plaintiff for all the exhibits it has filed in this case. PX 33 was submitted on January 13, 2009, in support of Plaintiff's motion for preliminary injunction. Docket Entry 62. PX 33 is resubmitted with this motion along with Krause Att. A. Krause Attachments B-KK are omitted because they are unrelated to the calculation of the FTC's claim for consumer redress that is the subject of this motion.

148 Ontario and Paulozza to vacate the default, effectively permitting their attorney's appearance and their answer to stand. All other Defendants remained in default.

On January 13, 2009, Plaintiff filed a motion, with supporting exhibits, to extend the previously granted preliminary injunction to the Defendants named in the Amended Complaint, including Defendants 148 Ontario and Paulozza. Along with the motion, Plaintiff submitted additional evidence obtained after this case was filed, including declarations from United States telemarketers used by Defendants, excerpts from transcripts of video-recorded statements of Defendants' former employees, records from the province of Ontario, and Defendants' own documents and records seized by Canadian authorities during the execution of search warrants. Defendants 148 Ontario and Paulozza did not file an opposition, acquiesce, or defend against the preliminary injunction. Instead, their attorney filed a motion to withdraw, which was granted on February 19, 2009. On March 6, 2009, the Court entered the preliminary injunction.

The preliminary injunction imposes certain affirmative obligations on Defendants, such as an obligation to provide Plaintiff with completed financial statements and a consent to release financial records held by financial institutions. Defendants 148 Ontario and Paulozza failed to comply with these provisions of the preliminary injunction. Plaintiff has received no contact from these Defendants or from any representative since their attorney withdrew. No substitute counsel has appeared either for Defendant 148 Ontario or Paulozza.

On April 10, 2009, the Court ordered Paulozza to appear personally at a status hearing on May 1, 2009, or risk sanctions, including default. Paulozza failed to appear as ordered, and his default was entered on May 1, 2009. Defendant, 148 Ontario, has no attorney of record in this case.

## II. FACTUAL BASIS FOR ENTRY OF DEFAULT JUDGMENT

In support of this application, the FTC states as follows:

1. Defendant Select Personnel Management, Inc., and James Stewart were properly served with the Original Complaint and summons on February 1, 2007.

2. On May 21, 2007, default was entered against Defendants Stewart and Select Personnel Management, Inc., for failing to file any response, answer, or pleading.

3. Defendants Select Personnel Management, Inc., and James Stewart have not appeared in this case and have failed to file any response, answer, pleading, or otherwise defend.

4. On August 18, 2008, Plaintiff filed an Amended Complaint naming as Defendants five additional corporations and two individuals, Philip J. Richards and Luigi Paulozza.

5. Plaintiff is not required to serve Defendants Select Personnel Management, Inc., and James Stewart after they have been found in default for failing to appear because the Amended Complaint did not assert a new claim for relief against either Stewart or Select Personnel Management, Inc. Fed. R. Civ. P. 5(a)(2).

6. The Defendants added by the Amended Complaint were properly served with the Amended Complaint and summonses as follows: 1402473 Ontario Limited on September 30, 2008; 148 Ontario Inc. on September 29, 2008; 2105635 Ontario Limited on August 25, 2008; Special T Services Group Inc. on August 25, 2008; United Registration Services, Inc., on September 23, 2008; Paulozza on September 6, 2008; and Richards on August 25, 2008.

7. On October 31, 2008, default was entered against Defendants 1402473 Ontario Limited, 148 Ontario 2105635 Ontario Limited, Special T Services Group Inc., United, Registration Services, Inc., Paulozza, and Richards for failing to appear, plead, or otherwise defend.

8. Defendants 1402473 Ontario Limited, 2105635 Ontario Limited; Special T Services Group Inc., United Registration Services, Inc., and Richards have not appeared in this case and have failed to file any response, answer, pleading, or otherwise defend.

9. On November 5, 2008, an attorney appearance and an answer to the Amended Complaint was filed on behalf of 148 Ontario and Paulozza.

10. On November 14, 2008, the Court vacated the order entering default against 148 Ontario and Paulozza, permitting the appearance of their attorney and their answer to the Amended Complaint to stand.

11. On January 13, 2009, Plaintiff filed its motion for preliminary injunction.

12. On February 19, 2009, the Court granted the motion by the attorney for 148 Ontario and Paulozza to withdraw.

13. No substitute attorney has appeared on behalf of 148 Ontario or Paulozza.

14. On March 6, 2009, the Court granted Plaintiff's motion for preliminary injunction. No response or defense was raised against the motion.

15. On April 10, 2009, the Court ordered Paulozza to appear personally at a May 1, 2009, status hearing. The Court noted that 148 Ontario, an unrepresented corporation, was not before the Court.

16. On May 1, 2009, Paulozza failed to appear as ordered by the Court. The Court found Paulozza to be in default for failing to appear at the hearing or otherwise defending this case and his default was entered. (Docket Document No. 79 ("Dkt. 79")).

17. Defendant 148 Ontario is unrepresented and cannot appear except through counsel. *E.g., U.S. v. Hagerman*, 545 F.3d 579, 581 (7th Cir. 2008).

18. The FTC is not required to serve notice of the FTC's Application for Entry of Order for Permanent Injunction and Final Default Judgment on Defendants Select Personnel Management, Inc., 1402473 Ontario Limited, 2105635 Ontario Limited; Special T Services Group Inc., United Registration Services, Inc., James Stewart; and Philip J. Richards because they are in default for failing to appear. Fed. R. Civ. P. 5(a)(2), 55(b)(2).

19. On May 11, 2009, Plaintiff properly served its Application for Entry of Order for Permanent Injunction and Final Default Judgment and proposed order on Defendants Luigi Paulozza and 1489841 Ontario Inc., an unrepresented corporation, and provided three days notice as required by Fed. R. Civ. P. 55(b)(2) because they previously had appeared in this case through an attorney. Plaintiff was not required to serve or to provide notice to 148 Ontario Inc. because it is unrepresented and cannot appear without counsel. Neither Paulozza nor 148 Ontario appeared at the presentment of the motion or otherwise defended this Application.

20. Defendants' net sales were seven million, eight hundred forty-five thousand, seven hundred ninety-five United States Dollars (\$7,845,795 (USD)) from the unlawful conduct alleged in the Amended Complaint.

21. Plaintiff is therefore entitled to equitable monetary relief against Defendants in the amount of seven million, eight hundred forty-five thousand, seven hundred ninety-five United States Dollars (\$7,845,795 (USD)), the amount of consumer injury caused by Defendant's practices alleged in the Amended Complaint.

22. Defendants are jointly and severally liable for the payment of seven million, eight hundred forty-five thousand, seven hundred ninety-five United States Dollars (\$7,845,795 (USD)).

### III. REQUESTED RELIEF

Therefore, the FTC requests that the Court:

A. Deem the allegations of the Complaint to be true, enter the proposed Order for Permanent Injunction and Final Default Judgment Against All Defendants submitted with this application, including findings of fact and conclusions of law. *Black v. Lane*, 22 F.3d 1395, 1399 (7th Cir. 1994) (facts alleged in complaint deemed true in the context of default judgment).

B. Enter a permanent injunction prohibiting Defendants from engaging in the practices alleged in the Amended Complaint, including, violating Section 5(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a), the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the “Telemarketing Sales Rule,” 16 C.F.R. Part 310; and, particularly, (1) banning Defendants from telemarketing, or assisting others in telemarketing, and (2) prohibiting Defendants from misrepresenting: (a) an affiliation with consumers’ credit card companies; (b) that consumers who pay a fee and receive services are likely to experience a reduction in their existing credit card interest rates, such as a reduction in rates to between 4.75 percent and 9 percent; (c) that consumers who pay a fee and receive services will save at least \$2500, or some other amount, in credit card interest charges; and (d) that consumers who pay a fee to purchase services will be provided a refund of the cost of those services if the consumers do not save the represented amount in credit card interest charges.

C. Grant additional ancillary injunctive relief that is remedial in nature and designed to prevent injury to the public, to deter future illegal conduct, and to provide for monitoring and compliance with the granted injunctive relief. The requested relief is similar to that which has been granted by default and summary judgment in other FTC cases. *FTC v. Datacom*

*Marketing, Inc.*, Case No. 06-2754 (Holderman, J.) (default judgment entered on May 6, 2008); *FTC v. Oks*, Case No. 05-5389 (N.D. Ill. 2008) (Guzman, J.) (judgment by default and summary judgment; order issued March 24, 2008); *FTC v. Pacific First Benefit, LLC*, 472 F. Supp. 2d 981 (N.D. Ill. 2007) (Norgle, J.); and *FTC v. 120194 Canada, Ltd.*, 2007 U.S. Dist. LEXIS 12657 (N.D. Ill. 2007) (Gottschall, J.).

D. Enter a monetary judgment for consumer redress in the amount of seven million, eighth hundred fifty-two thousand, seven hundred ninety-five United States Dollars (\$7,852,795 USD) against Defendants, jointly and severally. *See FTC v. Febre*, 128 F.3d 530, 534 (7th Cir. 1997); *FTC v. Amy Travel Service, Inc.*, 875 F.2d at 573 (Court's equitable jurisdiction includes the authority to order consumer redress). This amount is Defendants' net sales from the unlawful conduct alleged in the Amended Complaint and constitutes the consumer injury caused by that conduct. The sales figures are established by the declaration of Alan E. Krause, FTC Investigator, and derived from Defendants' records obtained by Canadian law enforcement authorities pursuant to criminal search warrants. (PX 33 Krause ¶¶ 7, 8).

#### **IV. CONCLUSION**

The FTC has filed a memorandum in support of this application. For the foregoing reasons and the reasons stated in that memorandum, the FTC respectfully requests that, pursuant to Fed. R. Civ. P. 55(b)(2), the Court enter an order for permanent injunction and final default

judgment against all Defendants. A proposed Order for Permanent Injunction and Final Default Judgment is submitted electronically with this Application.

Respectfully submitted,

Dated: May 11, 2009

s/ John C. Hallerud  
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