

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FEDERAL TRADE COMMISSION :
and :
STATE OF CONNECTICUT, :
Plaintiffs :
v. : Case No. 3:11-CV-1715 (VLB)
LEANSPA, LLC, :
NUTRASLIM, LLC, :
NUTRASLIM U.K. LTD., also :
d/b/a LEANSPA U.K.LTD., :
and :
BORIS MIZHEN, :
Defendants. :

**EX PARTE TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE**

The Federal Trade Commission and the State of Connecticut, through its Attorney General, have filed a complaint for a permanent injunction and other equitable relief and moved ex parte for a temporary restraining order (TRO) and an order directing the Defendants to show cause why further relief should not be granted pending a hearing on the Plaintiffs' motion for a preliminary injunction.

The Court having considered the complaint, the motion for an ex parte TRO, and the declarations, exhibits and memorandum of law submitted in support of the motion, and otherwise being advised, finds that there is good cause for issuing this ex parte

TRO pursuant to Rule 65(b) of the Federal Rules of Civil Procedure to avoid irreparable harm to the Court's ability to provide effective final relief in the event the plaintiffs prevail in this case, including restitution for injured consumers. This TRO is being issued ex parte without advance notice to the Defendants in order to prevent them from transferring, concealing or dissipating assets before the TRO is served and a hearing can be held. The factual and legal basis for this ex parte TRO is set forth more fully in a ruling issued today. See Ruling Granting In Part Ex Parte Motion for Temporary Restraining Order, FTC v. Mizhen, Case No. 110CV-1715(VLB) (D. Conn. filed Nov. 14, 2011).

DEFINITIONS

For purposes of this TRO, the following definitions apply:

1. "Plaintiffs" means the FTC and the State of Connecticut.
2. "Defendants" means Boris Mizhen, LeanSpa, LLC, NutraSlim, LLC, NutraSlim U.K. Ltd., and their subsidiaries, affiliates, successors and assigns, and includes fictitious names under which they do business.
3. "Assets" means any legal or equitable interest in, right to, or claim to, any and all real and personal property of Defendants, or held for the benefit of Defendants, including but not limited to real estate, chattels, goods, equipment, fixtures, inventory, cash, currency, checks, notes, accounts, credits,

receivables, shares of stock, contracts, or other assets, or any interest therein, wherever located.

I.

ASSET FREEZE

It is hereby ordered that Defendants, whether acting directly or through any corporation, partnership, subsidiary, division, affiliate, or other entity or device, and their officers, agents, servants, employees and attorneys, and those persons acting in active concert or participation with them who receive actual notice of this order by personal service or otherwise, are hereby temporarily restrained and enjoined from directly or indirectly:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, gifting, conveying, granting a lien or security interest or other interest in, or otherwise disposing of any finds, real or personal property, accounts, contracts, consumer lists, or any other assets, or any interest therein, wherever located, including outside the United States, that are:

1. Owned or controlled, directly or indirectly, by any Defendant, in whole or in part, including, but not limited to, any assets held by , for, or in the name of any Defendant at any bank or savings and loan institution or credit or debit 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, depository of any kind, or business entity;

2. Held for the benefit of any Defendant.

3. In the actual or constructive possession of any Defendant; or

4. Owned, controlled by, or in the actual or constructive possession of any corporation, partnership, limited liability company, or other entity directly or indirectly owned, managed, or controlled by any Defendant, or any other entity directly or indirectly owned, managed, or controlled by any Defendant, including, but not limited to, any assets held by, for, or subject to access by, any Defendant, at any bank or savings and loan institution or credit or debit 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 depository of any kind;

B. Opening or causing to be opened any safe deposit boxes titled, individually or jointly, in the name of any Defendant, or subject to access by any Defendant;

C. Cashing any checks or depositing any payments received from customers of the Defendants;

D. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of any Defendant;

E. Obtaining a personal or secured loan encumbering the assets of any Defendant; and

F. Incurring liens or encumbrances on real property, personal property or other assets in the name, singly or jointly, of any Defendant.

The assets affected by this Section shall include both existing assets and assets acquired after the date this Order was entered.

HOWEVER, and not inconsistent with the foregoing, the Defendants, upon written notice to the Court and the Plaintiffs, may have up to \$15,000 released from one or more specifically identified accounts for the sole purposes of paying ordinary expenses in the regular course of business and reasonable living expenses.

II.

RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS AND THIRD PARTIES

It is further ordered that, pending determination of the Plaintiffs' motion for a preliminary injunction, any financial or brokerage institution, merchant bank, credit or debit card processing company, payment processing company, escrow agent, trust, entity, or person that: (1) holds, controls, or maintains

custody of any account or asset owned or controlled by any Defendant; (2) holds, controls, or maintains custody of any account or asset titled in the name of any Defendant, either individually or jointly, or held for the benefit or any Defendant; (3) holds, controls, or maintains custody of any account or credit or debit card charges, electronic fund transfers, or remotely created checks made by, or on behalf of, any Defendant or any other entity owned or controlled by any Defendant; or (4) has held, controlled, or maintained any account or asset of, or on behalf of, any Defendant at any time since January 1, 2010, upon service with a copy of this Order, shall:

A. Prohibit Defendants or any other person or entity with control over such assets from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, gifting, or otherwise disposing of any such assets, funds, or other property, except as directed by further order of the Court; or

B. Deny the Defendants access to any safe deposit box titled in the name of any Defendant, individually, or jointly, or subject to access by any Defendant, whether directly or indirectly.

C. Provide counsel for the Plaintiffs, within three (3) business days after being served a copy of this Order, a certified statement setting forth:

1. The identification number of each such account or asset titled: (1) in the name, individually or jointly, of any Defendant; (2) held on behalf of, or for the benefit of, any Defendant; (3) owned or controlled by any Defendant; or (4) otherwise subject to access by any Defendant, directly or indirectly;
2. The balance of each such account, or a description of the nature and value of such asset, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the balance or value removed in order to close the account, and the name of the person or entity to whom such an account or other asset was remitted; and
3. The identification of any safe deposit box that is either titled in the name of any Defendant, or is otherwise subject to access by and Defendant.

III.

SERVICE OF ORDER

It is further ordered that copies of this Order may be served by any means, including facsimile transmission or email, by employees or agents of the Plaintiffs, upon any financial

institution or other entity or person that may have possession, custody, or control of any documents or assets of Defendants, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

IV.

NOTICED TEMPORARY RESTRAINING ORDER HEARING

It is further ordered, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, that Defendants shall appear on **November 22, 2011, at 9:30 a.m.**, at the United States Courthouse, 450 Main Street, Hartford, Connecticut, Courtroom 2-Annex, before the Honorable Vanessa L. Bryant, United States District Judge, to show cause, if there is any, why the Court should not enter a proposed Noticed Temporary Restraining Order, enjoining them from further violations of Sections 5 and 12 of the Federal Trade Commission Act, the Electronic Funds Transfer Act, 15 U.S.C. § 1693(e), and the Connecticut Unfair Trade Practices Act ("CUTPA"), Conn. Gen. Stat. § 42-110b(a), continuing the freeze of their assets, appointing a temporary receiver and imposing such additional relief as may be appropriate, until such time as a preliminary injunction hearing is held.

V.

DURATION OF ORDER

It is further ordered that this ex parte TRO will expire on

November 22, 2011, at 5:00, unless (1) Defendants obtain from the Court an extension of time for a hearing on the motion for a Noticed Temporary Restraining Order, in which case this TRO shall be extended until 5:00 p.m. on the date of such hearing; or (2) within such time, the Order, for good cause shown, is extended for an additional period not to exceed fourteen calendar days, or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

So ordered this 14th day of November 2011, at 9:45 a.m.

_____/s/ RNC_____
Robert N. Chatigny
United States District Judge