

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,
Plaintiff,

vs.

APARTMENT HUNTERS, INC., a
corporation, also d/b/a
WeTakeSection8.com,
ApartmentHunterz.com, and
FeaturedRentals.com,
REAL ESTATE DATA SOLUTIONS,
INC., a corporation,
RENTAL HOME LISTINGS INC., a
corporation,
UAB APARTMENT HUNTERS LT, a
limited liability company,
STEVEN SHAYAN, individually and
as an officer of Apartment Hunters,
Inc., Real Estate Data Solutions, Inc.,
Rental Home Listings Inc., and UAB
Apartment Hunters LT, and
KEVIN SHAYAN, a/k/a Kaveh
Shayan, individually and as a manager
or *de facto* officer of Apartment
Hunters, Inc., Real Estate Data
Solutions, Inc., Rental Home Listings
Inc., and UAB Apartment Hunters LT,

No. 8:18-CV-1636-AG(DFMx)

TEMPORARY RESTRAINING
ORDER WITH EQUITABLE
RELIEF, AND ORDER TO SHOW
CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT
ISSUE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendants.

Plaintiff, the Federal Trade Commission, has filed its Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). Pursuant to Fed. R. Civ. P. 65, Plaintiff has moved for a temporary restraining order, asset preservation, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Apartment Hunters, Inc., a corporation, also doing business as WeTakeSection8.com, ApartmentHunterz.com, and FeaturedRentals.com, Real Estate Data Solutions, Inc. Rental Home Listings, Inc. and UAB Apartment Hunters LT, Steven Shayan, individually and as an officer of Apartment Hunters, Inc., and Kevin Shayan, a.k.a. Kaveh Shayan, individually and as a manager and *de facto* officer of Apartment Hunters, Inc. (collectively, “Defendants”).

FINDINGS OF FACT

The Court, having considered the Complaint, the Application for Temporary Restraining Order, declarations, exhibits, and the memorandum of points and authorities filed in support thereof, and being otherwise advised, finds that:

A. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto and that venue in this district is proper.

B. Defendants make false, misleading, or unsubstantiated claims that consumers who subscribe to their websites find rental housing, including housing that is approved for Section 8 Housing Vouchers, within seven business days or less, that the rental listings on the Defendants’ websites are accurate, up-to-date, and available for consumers to rent, that Defendants have exclusive rights to list certain rental listings on their websites, and that consumers cannot find these listings on free websites.

1 C. There is good cause to believe that Defendants have engaged in and
2 are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15
3 U.S.C. § 45(a), and that Plaintiff is therefore likely to prevail on the merits of this
4 action. The FTC has established a likelihood of success in showing that
5 Defendants have made material misrepresentations in the promotion and sale of
6 subscriptions for rental listings to numerous consumers, as demonstrated by screen
7 captures of Defendants' websites, declarations and complaints from consumers,
8 declarations and complaints from landlords, a declaration from a representative of
9 the Housing Authority for San Bernardino County, the declaration of a FTC
10 investigator, and the additional documentation filed by the FTC.

11 D. There is good cause to believe that immediate and irreparable harm
12 will result from Defendants' ongoing violations of the FTC Act unless Defendants
13 are restrained and enjoined by order of this Court.

14 E. There is good cause to believe that immediate and irreparable damage
15 to the Court's ability to grant effective final relief for consumers—including
16 monetary restitution, rescission, disgorgement or refunds—will occur from the
17 sale, transfer, destruction or other disposition or concealment by Defendants of
18 their Assets, unless Defendants are immediately restrained and enjoined by order
19 of this Court from doing so outside the ordinary course of business.

20 F. There is good cause to believe that immediate and irreparable damage
21 to the Court's ability to resolve the case on the merits will occur absent a Court
22 Order requiring the preservation of Defendants documents, records, and databases.

23 G. Defendants have been noticed and provided an opportunity to defend
24 Plaintiff's request for a Temporary Restraining Order.

25 H. Good cause exists permitting the Plaintiff to take limited expedited
26 discovery.

27 I. Weighing the equities and considering Plaintiff's likelihood of
28 ultimate success on the merits, a temporary restraining order with expedited

1 discovery, a prohibition on listing, or marketing or selling access to, rental listings
2 for properties that accept, or purportedly accept, Section 8 vouchers or other
3 government housing subsidies, and other equitable relief is in the public interest.

4 J. This Court has authority to issue this Order pursuant to Section 13(b)
5 of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65.

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

8
9 **DEFINITIONS**

10 For the purpose of this Order, the following definitions shall apply:

11 A. **“Advertisement”** or **“advertising”** means any written or verbal
12 statement, illustration, or depiction that promotes the sale of a good or service or is
13 designed to increase consumer interest in a brand, good, or service. Advertising
14 media include, but are not limited to, packaging and labeling; promotional
15 materials; print; television; radio; mobile applications; and Internet, social media,
16 and other digital content.

17 B. **“Asset”** includes any legal or equitable interest in, right to, or claim
18 to, any real and personal property, including, but not limited to, websites, chattel,
19 goods, instruments, equipment, fixtures, general intangibles, inventory, checks,
20 notes, leaseholds, effects, contracts, mail or other deliveries, shares of stock,
21 interest in mutual funds, lists of consumer names, accounts, credits, premises,
22 receivables, funds, and cash, wherever located, whether in the United States or
23 abroad.

24 C. **“Corporate Defendant(s)”** means Apartment Hunters, Inc., also d/b/a
25 WeTakeSection8.com, ApartmentHunterz.com, and FeaturedRentals.com; Real
26 Estate Data Solutions, Inc.; Rental Home Listings Inc.; UAB Apartment Hunters
27 LT; individually or collectively, and each of their subsidiaries, affiliates,
28 successors, and assigns.

1 D. **“Defendant(s)”** means Corporate Defendants, Kevin Shayan, and
2 Steven Shayan, individually, collectively, or in any combination.

3 E. **“Document”** is synonymous in meaning and equal in scope to the
4 usage of “document” and “electronically stored information” in Federal Rule of
5 Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings,
6 graphs, charts, photographs, sound and video recordings, images, Internet sites,
7 web pages, websites, databases, electronic correspondence, including e-mail, chats,
8 and instant messages, contracts, accounting data, advertisements, FTP Logs, Server
9 Access Logs, books, written or printed records, handwritten notes, telephone or
10 videoconference logs, telephone scripts, receipt books, ledgers, personal and
11 business canceled checks and check registers, bank statements, appointment books,
12 computer records, customer or sales databases and any other electronically stored
13 information, including Documents located on remote servers or cloud computing
14 systems, and other data or data compilations from which information can be
15 obtained directly or, if necessary, after translation into a reasonably usable form. A
16 draft or non-identical copy is a separate document within the meaning of the term.

17 F. **“Housing Voucher”** means a rent subsidy voucher issued by a
18 government housing agency pursuant to Section 8 of the United States Housing
19 Act of 1937, 42 U.S.C. § 1437f.

20 G. **“Individual Defendants”** means Kevin Shayan and Steven Shayan,
21 individually or collectively.

22
23 **ORDER**

24 **I. PROHIBITION AGAINST LISTING AND MARKETING OF**
25 **GOVERNMENT-SUBSIDIZED RENTAL HOUSING, INCLUDING**
26
27
28

1 **ANY RENTAL PROPERTIES THAT ACCEPT HOUSING**
2 **VOUCHERS**

3 **It is Ordered that** Defendants are restrained and enjoined from advertising,
4 marketing, promoting, offering for sale, or selling, or assisting others in the
5 advertising, marketing, promoting, offering for sale, or selling of, access to rental
6 listings for properties that have been approved for, accept, or purportedly accept
7 Housing Vouchers or any type of government rent subsidy.

8 **II. PROHIBITION AGAINST THE USE OF CERTAIN TERMS IN**
9 **CONNECTION WITH MARKETING OF ACCESS TO RENTAL**
10 **LISTINGS**

11 **It is further Ordered that** Defendants, Defendants’ officers, agents,
12 employees, and attorneys, and all other persons in active concert or participation
13 with any of them, who receive actual notice of this Order by personal service or
14 otherwise, whether acting directly or indirectly, in connection with the advertising,
15 marketing, promoting, offering for sale, or selling of subscriptions or access to
16 rental listings are restrained and enjoined from using in any domain names,
17 Uniform Resource Locators (URLs) for public-facing websites, keywords
18 purchased to advertise Defendants’ services on search engines, mobile
19 applications, or business names or aliases, any of the following terms:

- 20 • **“Section 8,”**
 - 21 • **“Voucher,”**
 - 22 • **“Subsidized,”**
 - 23 • **“Affordable housing,”**
 - 24 • **“Low-income,”**
 - 25 • **“Public housing,”**
 - 26 • **“Income-based,”** or
 - 27 • **“Project-based.”**
- 28

1 **III. PROHIBITION AGAINST DECEPTIVE CLAIMS RELATING TO**
2 **RENTAL LISTINGS, INCLUDING FALSE OR UNSUBSTANTIATED**
3 **CLAIMS**

4 **It is further Ordered that** Defendants, Defendants’ officers, agents,
5 employees, and attorneys, and all other persons in active concert or participation
6 with any of them, who receive actual notice of this Order by personal service or
7 otherwise, whether acting directly or indirectly, in connection with the advertising,
8 marketing, promoting, offering for sale, or selling of subscriptions or access to
9 rental listings are restrained and enjoined from:

10 A. making any misrepresentation, or assisting others in making any
11 misrepresentation, expressly or by implication:

- 12 1. about the number of listings contained in any website or
13 database;
- 14 2. about the length of time it takes users of a website or database
15 to find rental housing;
- 16 3. that rental listings on a website or database contain accurate
17 contact information for landlords;
- 18 4. that rental listings on a website or database are up to date;
- 19 5. that rental listings on a website or database are exclusive or not
20 found on other websites;
- 21 6. that rental listings on a website or database are available for
22 rent; or
- 23 7. about any other fact material to consumers concerning the
24 purchase of a subscription or access to rental listings, such as:
25 the total costs; any material restrictions, limitations, or
26 conditions; the nature or terms of a refund or cancellation; or
27 any material aspect of its performance, efficacy, nature, or
28 central characteristics; and

1 B. making or assisting others in making any representation, expressly or
2 by implication, about the benefits, performance, or efficacy of websites or
3 databases that contain rental listings (including the representations set forth in
4 Section III.A.1-9, above), unless:

- 5 1. the representation is non-misleading;
- 6 2. there is a reasonable basis for the representation at the time the
7 representation is made; and
- 8 3. there is written substantiation for the representation in the
9 Defendants' possession at the time the representation is made.

10 **IV. PROHIBITION AGAINST MISREPRESENTATIONS RELATING TO**
11 **ANY GOOD OR SERVICE**

12 **It is further Ordered that** Defendants, Defendants' officers, agents,
13 employees, and attorneys, and all other persons in active concert or participation
14 with any of them, who receive actual notice of this Order by personal service or
15 otherwise, whether acting directly or indirectly, in connection with the advertising,
16 marketing, promoting, offering for sale, or selling of any good or service are
17 restrained and enjoined from misrepresenting, or assisting others in
18 misrepresenting, expressly or by implication: the total costs; any material
19 restrictions, limitations, or conditions; any material aspect of its performance,
20 efficacy, nature, or central characteristics; the nature or terms of a refund or
21 cancellation; or any other material fact.

22 **V. PRESERVATION OF DOCUMENTS, RECORDS, AND DATABASES**

23 **It is further ordered that** Defendants, Defendants' officers, agents,
24 employees, and attorneys, and all other Persons in active concert or participation
25 with any of them, who receive actual notice of this Order, whether acting directly
26 or indirectly, are hereby temporarily restrained and enjoined from:

27 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,
28 altering, transferring, or otherwise disposing of, in any manner, directly or

1 indirectly, Documents, records, or databases that relate to: (1) the business,
2 business practices, Assets, or business or personal finances of any Defendant; (2)
3 the business practices or finances of entities directly or indirectly under the control
4 of any Defendant; or (3) the business practices or finances of entities directly or
5 indirectly under common control with any other Defendant; and

6 B. Failing to create and maintain Documents that, in reasonable detail,
7 accurately, fairly, and completely reflect Defendants' incomes, disbursements,
8 transactions, and use of Defendants' Assets.

9 VI. DISTRIBUTION OF ORDER BY DEFENDANTS

10 **It is further ordered that** Defendants shall immediately provide a copy of
11 this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign,
12 member, officer, director, employee, agent, independent contractor, client, attorney,
13 spouse, subsidiary, division, and representative of any Defendant, and shall, within
14 ten (10) days from the date of entry of this Order, provide Plaintiff with a sworn
15 statement that this provision of the Order has been satisfied, which statement shall
16 include the names, physical addresses, phone number, and email addresses of each
17 such person or entity who received a copy of the Order. Furthermore, Defendants
18 shall not take any action that would encourage officers, agents, members, directors,
19 employees, salespersons, independent contractors, attorneys, subsidiaries,
20 affiliates, successors, assigns or other persons or entities in active concert or
21 participation with them to disregard this Order or believe that they are not bound
22 by its provisions.

23 VII. ASSET PRESERVATION

24 **It is further ordered that** Defendants shall take all steps necessary to
25 preserve Defendants' Assets, as well as the Assets of its affiliated companies, and
26 to refrain from liquidating, converting, encumbering, pledging, loaning, selling,
27 dissipating, disbursing, granting a lien or security interest or other interest in, or
28

1 otherwise disposing of any funds, real or personal property, or other Assets, outside
2 of the ordinary course of business.

3 **VIII. FINANCIAL DISCLOSURES**

4 **It is further ordered** that within five (5) days following the service of this
5 Order, each Defendant shall prepare and deliver to Plaintiff's counsel:

6 A. completed financial statements on the forms attached to this Order as
7 **Attachment A** (Financial Statement of Individual Defendant) for each Individual
8 Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for
9 each Corporate Defendant;

10 B. completed **Attachment C** (IRS Form 4506, Request for Copy of a
11 Tax Return) for each Individual and Corporate Defendant.

12 **IX. LIMITED EXPEDITED DISCOVERY**

13 **It is further ordered** that, notwithstanding the provisions of the Fed. R. Civ.
14 P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45,
15 Plaintiff is granted leave, at any time after service of this Order, to conduct limited
16 expedited discovery for the purpose of discovering: (1) the nature, location, status,
17 and extent of Defendants' Assets; (2) the nature, location, and extent of
18 Defendants' business transactions and operations; (3) Documents reflecting
19 Defendants' business transactions and operations; or (4) compliance with this
20 Order. The limited expedited discovery set forth in this Section shall proceed as
21 follows:

22 A. Plaintiff may take the deposition of parties and non-parties. Forty-
23 eight (48) hours' notice shall be sufficient notice for such depositions. The
24 limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the
25 Federal Rules of Civil Procedure regarding subsequent depositions of an individual
26 shall not apply to depositions taken pursuant to this Section. Any such deposition
27 taken pursuant to this Section shall not be counted towards the deposition limit set
28

1 | forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by
2 | telephone or other remote electronic means;

3 | B. Plaintiff may serve upon parties requests for production of Documents
4 | or inspection that require production or inspection within five (5) calendar days of
5 | service, provided, however, that three (3) calendar days of notice shall be deemed
6 | sufficient for the production of any such Documents that are maintained or stored
7 | only in an electronic format.

8 | C. Plaintiff may serve upon parties interrogatories that require response
9 | within five (5) calendar days after Plaintiff serves such interrogatories;

10 | D. The Plaintiff may serve subpoenas upon non-parties that direct
11 | production or inspection within five (5) calendar days of service.

12 | E. Service of discovery upon a party to this action, taken pursuant to this
13 | Section, shall be sufficient if made by facsimile, email, or by overnight delivery.

14 | F. Any expedited discovery taken pursuant to this Section is in addition
15 | to, and is not subject to, the limits on discovery set forth in the Federal Rules of
16 | Civil Procedure and the Local Rules of this Court. The expedited discovery
17 | permitted by this Section does not require a meeting or conference of the parties,
18 | pursuant to Rules 26(d) & (f) of the Federal Rules of Civil Procedure.

19 | G. The Parties are exempted from making initial disclosures under Fed.
20 | R. Civ. P. 26(a)(1) until further order of this Court.

21 | **X. SERVICE OF THIS ORDER**

22 | **It is further ordered that** copies of this Order as well as the Application for
23 | Temporary Restraining Order and all other pleadings, Documents, and exhibits
24 | filed contemporaneously with that Application (other than the complaint and
25 | summons), may be served by any means, including facsimile transmission,
26 | electronic mail or other electronic messaging, personal or overnight delivery, U.S.
27 | Mail or FedEx, by agents and employees of Plaintiff, by any law enforcement
28 | agency, or by private process server, upon any Defendant or any Person (including

1 any financial institution) that may have possession, custody or control of any Asset
2 or Document of any Defendant, or that may be subject to any provision of this
3 Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For
4 purposes of this Section, service upon any branch, subsidiary, affiliate or office of
5 any entity shall effect service upon the entire entity.

6 **XI. CORRESPONDENCE AND SERVICE ON PLAINTIFF**

7 **It is further ordered that**, for the purpose of this Order, all correspondence
8 and service of pleadings on Plaintiff shall be addressed to:

9 Rhonda Perkins (rperkins@ftc.gov)

10 Amanda Grier (agrier@ftc.gov)

11 Federal Trade Commission

12 600 Pennsylvania Ave., NW

13 Mailstop CC-8528

14 Washington, DC 20580

15 Fax: 202-326-3395

16 **XII. PRELIMINARY INJUNCTION SHOW CAUSE HEARING**

17 **It is further ordered that**, pursuant to Fed. R. Civ. P. 65(b), Defendants
18 shall appear before this Court on **September 24, 2018**, at **10:00 a.m.** to show
19 cause, if there is any, why this Court should not enter a preliminary injunction,
20 pending final ruling on the Complaint against Defendants, enjoining the violations
21 of the law alleged in the Complaint, continuing the preservation of their Assets,
22 and imposing such additional relief as may be appropriate.

23 **XIII. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY**
24 **INJUNCTION**

25 **It is further ordered that:**

26 A. Defendants shall file with the Court and serve on Plaintiff's counsel
27 any answering pleadings, affidavits, motions, expert reports or declarations, or
28 legal memoranda no later than **four (4) business days** prior to the order to show

1 cause hearing scheduled pursuant to Section XII of this Order. Plaintiff may file
2 responsive or supplemental pleadings, materials, affidavits, or memoranda with the
3 Court and serve the same on counsel for Defendants no later than **one (2) business**
4 **days** prior to the order to show Cause hearing. Provided that such affidavits,
5 pleadings, motions, expert reports, declarations, legal memoranda or oppositions
6 must be served by personal or overnight delivery, facsimile or email, and be
7 received by the other party or parties no later than 5:00 p.m. Pacific Time on the
8 appropriate dates set forth in this Section.

9 B. The question of whether this Court should enter a preliminary
10 injunction shall be resolved on the pleadings, declarations, exhibits, and
11 memoranda filed by, and oral argument of, the parties. Live testimony shall be
12 heard only on further order of this Court. Any motion to permit such testimony
13 shall be filed with the Court and served on counsel for the other parties at least **five**
14 **(5) business days** prior to the preliminary injunction hearing in this matter. Such
15 motion shall set forth the name, address, and telephone number of each proposed
16 witness, a detailed summary or affidavit revealing the substance of each proposed
17 witness's expected testimony, and an explanation of why the taking of live
18 testimony would be helpful to this Court. Any papers opposing a timely motion to
19 present live testimony or to present live testimony in response to another party's
20 timely motion to present live testimony shall be filed with this Court and served on
21 the other parties at least **three (3) business days** prior to the order to show cause
22 hearing.

23 Provided, however, that service shall be performed by personal or overnight
24 delivery, facsimile or email, and Documents shall be delivered so that they shall be
25 received by the other parties no later than 5:00 p.m. Pacific Time on the
26 appropriate dates provided in this Section.

27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XIV. RETENTION OF JURISDICTION

It is further ordered that this Court shall retain jurisdiction of this matter for all purposes, including the construction, modification, and enforcement of this Order.

SO ORDERED, this 13th day of September, 2018, at 3:30 p.m.



UNITED STATES DISTRICT JUDGE

ANDREW J GUILFORD