
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRAVIS DELOY PETERSON,
a/k/a Travis Peterson and T. D. Peterson,
individually and also d/b/a
Veterans of America, Telefunding LLC,
Vehicles for Veterans, LLC, Saving Our
Soldiers, Donate Your Car, Donate That Car
LLC,
Act of Valor, and Medal of Honor,

Defendant.

**FILED UNDER SEAL
PURSUANT TO COURT ORDER
(DOCKET NO. 9)**

**TEMPORARY RESTRAINING ORDER
WITH ASSET FREEZE AND OTHER
EQUITABLE RELIEF AND ORDER TO
SHOW CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE**

Case No. 4:18-cv-00049-DN

District Judge David Nuffer

Plaintiff, the Federal Trade Commission (“FTC”) has filed a 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108. Further, pursuant to Federal Rule of Civil Procedure 65(b), the FTC has moved *ex parte* for a Temporary Restraining Order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Defendant Travis Deloy Peterson.

FINDINGS OF FACT

The Court, having considered the Complaint, the *ex parte* Motion for a Temporary Restraining Order, declarations, exhibits, and 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. There is good cause to believe that the Defendant used telephone calls delivering a prerecorded message, more commonly known as “robocalls,” to solicit charitable donations of vehicles or other valuable property from consumers in this District and throughout the country.

C. There is good cause to believe that the Defendant has engaged in and is likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and Sections 310.3 and 310.4 of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. §§ 310.3(d)(1)-(2), 310.4(b)(1)(v), which the FTC adopted pursuant to the Telemarketing Act, and that Plaintiff is therefore likely to prevail on the merits of this action.

D. As demonstrated by consumer declarations, the FTC investigator declaration, public records, financial and business records, and additional evidence filed by the FTC in support of its Motion for Temporary Restraining Order, the FTC has established a likelihood of success in showing that the Defendant has (i) unlawfully initiated or caused to be initiated robocalls to induce charitable contributions and (ii) misrepresented that the entity identified in the Defendant’s robocalls is a charity and that donations to the entity are tax deductible.

E. There is good cause to believe that immediate and irreparable harm will result from the Defendant’s ongoing violations of the FTC Act and the TSR, unless the Defendant is restrained and enjoined by order of this Court.

F. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for consumers – including monetary restitution, rescission, disgorgement, or refunds – will occur from the sale, transfer, destruction or other

disposition or concealment by the Defendant of his assets or records, unless the Defendant is immediately restrained and enjoined by order of this Court; and that, in accordance with Fed. R. Civ. P. 65(b), the interests of justice require that this Order be granted without prior notice to the Defendant. Thus, there is good cause for relieving Plaintiff of the duty to provide the Defendant with prior notice of its Motion for a Temporary Restraining Order.

G. Good cause exists for freezing the Defendant's assets, requiring the Defendant to provide financial statements and accounting, and suspending and/or disconnecting the services or accounts used by the Defendant to engage in any activity that is the subject of the Complaint in this matter.

H. Weighing the equities and considering Plaintiff's likelihood of ultimate success on the merits, a temporary restraining order with an asset freeze, financial accounting, and other equitable relief is in the public interest.

I. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), Federal Rule of Civil Procedure 65, and the All Writs Act, 28 U.S.C. § 1651.

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

DEFINITIONS

For the purpose of this Temporary Restraining Order ("Order"), the following definitions shall apply:

A. "**Asset**" means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.

B. **“Charitable contribution”** means any donation or gift of money or any other thing of value.

C. **“Defendant”** means Travis Deloy Peterson and by whatever names he is known.

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

E. **“Donor”** means any person solicited to make a charitable contribution.

F. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes, but is not limited to, any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

G. **“Outbound telephone call”** means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

H. “**Person**” means a natural person, an organization, or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

I. “**Telemarketer**” means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

J. “**Telemarketing**” means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones.

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that the Defendant, his officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the solicitation of charitable contributions, are temporarily restrained and enjoined from:

A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

1. The nature, purpose, or mission of any of the Defendant’s corporate entities or fictitious business names on behalf of which a charitable contribution is being requested;
2. That any charitable contribution to any of the Defendant’s corporate entities or fictitious business names is tax deductible, in whole or in part; and
3. Any other fact material to donors, such as: the purpose for which any charitable contribution will be used; percentage or amount of any charitable contribution

that will go to a charitable organization or to any particular charitable program; or any relationship (such as affiliation, endorsement, or sponsorship) between any of the Defendant's entities and any person.

B. Initiating or causing to be initiated any outbound telephone call that delivers a prerecorded message to induce a charitable contribution.

II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that the Defendant, his officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing, the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that the Defendant obtained in connection with any activity that pertains to the subject matter of this Order; and

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that the Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that the Defendant may disclose such identifying information to a law enforcement agency, to his attorneys as required for his defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

III. SUSPENSION OF WEBSITES

IT IS FURTHER ORDERED that any person hosting any webpage or website for the Defendant or providing domain name registration services to or on behalf of the Defendant is hereby temporarily restrained and enjoined from failing to:

A. Immediately take whatever steps may be necessary to ensure that any webpage or website operated, in whole or in part, in connection with the Defendant's solicitation of charitable contributions cannot be accessed by the public;

B. Prevent the destruction or erasure of any webpage or website operated, in whole or in part, in connection with the Defendant's solicitation of charitable contributions, preserving such documents in the format in which they are currently maintained; and

C. Prevent the destruction or erasure of all records relating to the Defendant and provide the records to Plaintiff's counsel within **five (5) days** of receiving a request for the records.

IV. SUSPENSION OF ADVERTISEMENTS

IT IS FURTHER ORDERED that any person providing services for the purpose of advertising, promoting, or otherwise notifying the public (in print, on the Internet, or otherwise) to or on behalf of the Defendant is hereby temporarily restrained and enjoined from failing to:

A. Immediately take whatever steps may be necessary to ensure that any advertisement, promotion, or other public notice published, in whole or in part, in connection with the Defendant's solicitation of charitable contributions cannot be accessed by the public;

B. Prevent the destruction or erasure of any advertisement, promotion, or other public notice published, in whole or in part, in connection with the Defendant's solicitation of

charitable contributions, preserving such documents in the format in which they are currently maintained; and

C. Prevent the destruction or erasure of all records relating to the Defendant and provide the records to Plaintiff's counsel within **five (5) days** of receiving a request for the records.

V. SUSPENSION OF AUCTION SERVICE OR ACCOUNT

IT IS FURTHER ORDERED that any person providing services or accounts for the purpose of auctioning or otherwise selling vehicles, watercraft, or any personal property (on the Internet or otherwise) to or on behalf of the Defendant is hereby temporarily restrained and enjoined from failing to:

A. Immediately take whatever steps may be necessary to ensure that any such service or account used, in whole or in part, in connection with the Defendant's solicitation of charitable contributions is suspended; and

B. Prevent the destruction or erasure of all records relating to the Defendant and provide the records to Plaintiff's counsel within **five (5) days** of receiving a request for the records.

VI. SUSPENSION OF TELEPHONE SERVICES OR PRODUCTS

IT IS FURTHER ORDERED that any person providing telephone services or products, including, but not limited to, Voice Over Internet Protocol and telecommunications services, toll-free forwarding services, and automatic dialing and/or predictive dialing technology, software, or services, to or on behalf of the Defendant is hereby temporarily restrained and enjoined from failing to:

A. Immediately take whatever steps may be necessary to ensure that any such service or product (including any telephone and fax numbers) used, in whole or in part, in connection with the Defendant's solicitation of charitable contributions is suspended; and

B. Prevent the destruction or erasure of all records relating to the Defendant and provide the records to Plaintiff's counsel within **five (5) days** of receiving a request for the records.

VII. ASSET FREEZE

IT IS FURTHER ORDERED that the Defendant, his officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any Assets that are:

1. owned or controlled, directly or indirectly, by the Defendant;
2. held, in part or in whole, for the benefit of the Defendant;
3. in the actual or constructive possession of the Defendant; or
4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by the Defendant.

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by the Defendant or of which the Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which the Defendant is, or was on the date that this Order was signed, an authorized signor; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, customers, or donors of the Defendant.

The Assets affected by this Section shall include: (1) all Assets of the Defendant as of the time this Order is entered, including, but not limited, to any Assets held in (a) Wells Fargo Bank, N.A. in accounts with numbers ending in XXXXXX3312, XXXXXX8317, and XXXXXX0683; and (b) U.S. Bank, N.A. in an account with number ending in X-XXX-XXXX-2234; and (2) Assets obtained by the Defendant after this Order is entered if those Assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order.

VIII. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person who receives actual notice of this Order (by service or otherwise) that:

(a) has held, controlled, or maintained custody, through an account or otherwise, of any Document on behalf of the Defendant or any Asset that has been owned or controlled, directly or indirectly, by the Defendant; held, in part or in whole, for the benefit of the Defendant; in the

actual or constructive possession of the Defendant; or owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by the Defendant;

(b) has held, controlled, or maintained custody, through an account or otherwise, of any Document or Asset associated with credits, debits, or charges made on behalf of the Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or

(c) has extended credit to the Defendant, including through a credit card account, shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or Asset, as well as all Documents or other property related to such Assets, except by further order of this Court; provided, however, that this provision does not prohibit the Defendant from incurring charges on a personal credit card established prior to entry of this Order, up to the pre-existing credit limit;

B. Deny any person access to any safe deposit box, commercial mail box, or storage facility that is titled in the name of the Defendant, either individually or jointly, or otherwise subject to access by the Defendant;

C. Provide Plaintiff's counsel, within **three (3) days** of receiving a copy of this Order, a sworn statement setting forth, for each Asset or account covered by this Section:

1. The identification number of each such account or Asset;

2. The balance of each such account, or a description of the nature and value of each 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of the Defendant, or is otherwise subject to access by the Defendant; and

D. Upon the request of Plaintiff's counsel, promptly provide Plaintiff's counsel with copies of all records or other Documents pertaining to any account covered by this Section or Asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.

IX. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that the Defendant, within **five (5) days** of service of this Order upon him, shall prepare and deliver to Plaintiff's counsel completed financial statements on the form attached to this Order as **Attachment A** (Financial Statement of Individual Defendant).

X. CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that Plaintiff may obtain credit reports concerning the 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 reports are requested shall provide them to Plaintiff.

XI. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that the Defendant, his officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, Assets, or business or personal finances of the Defendant; (2) the business practices or finances of entities directly or indirectly under the control of the Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with the Defendant; and

B. Failing to create and maintain Documents that, in reasonable detail, accurately, fairly, and completely reflect the Defendant's incomes, disbursements, transactions, and use of the Defendant's Assets.

XII. DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that the Defendant shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of the Defendant, and shall, within fourteen (14) days from the date

of entry of this Order, and provide Plaintiff with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, the Defendant shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

XIII. SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that this Order must be served upon the Defendant in the manner provided in Rule 4(c) of the Federal Rules of Civil Procedure. Copies of this Order as well as the Motion for Temporary Restraining Order and all other pleadings, Documents, and exhibits filed contemporaneously with that Motion (other than the complaint and summons), may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or FedEx, by agents and employees of Plaintiff, by any law enforcement agency, or by private process server, upon the Defendant or any person (including any financial institution) that may have possession, custody, or control of any Asset or Document of the Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate, or office of any entity shall effect service upon the entire entity.

XIV. CORRESPONDENCE AND SERVICE ON PLAINTIFF

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on Plaintiff shall be addressed to:

Fil M. de Banate
Adrienne M. Jenkins
FEDERAL TRADE COMMISSION
1111 Superior Avenue East, Suite 200
Cleveland, Ohio 44114
fdebanate@ftc.gov; ajenkins@ftc.gov

XV. PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 65(b), Defendant shall appear before this Court on **Monday the 23rd day of July, 2018 at 8:30 a.m. (MDT)**, at the **United States Courthouse, 351 South West Temple, Salt Lake City, Utah 84101 in Courtroom 3.100** to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against the Defendant, enjoining the violations of the law alleged in the Complaint, continuing the freeze of Assets, and imposing such additional relief as may be appropriate.

XVI. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that:

A. The Defendant shall file with the Court and serve on Plaintiff's counsel any responsive pleadings, affidavits, motions, expert reports or declarations, or legal memoranda no later than **Wednesday, July 18, 2018**. Plaintiff may file a reply or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on the Defendant or the Defendant's counsel no later than **Friday, July 20, 2018 at 2:00 p.m. (MDT)**.

B. The parties must serve any filings or pleadings concerning preliminary injunction by personal or overnight delivery, or by email, to be received by the other party or parties no later than **4:00 p.m. (MDT)** on the applicable dates set forth in subsection A above.

XVII. DURATION OF THE ORDER

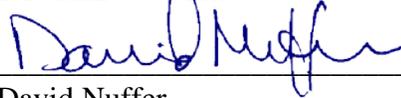
IT IS FURTHER ORDERED that this Order shall expire fourteen (14) days from the date of entry noted below, unless within such time, the Order is extended for an additional period pursuant to Fed. R. Civ. P. 65(b)(2).

XVIII. RETENTION OF JURISDICTION

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

Dated July 10, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

United States District Court
for the
District of Utah
July 10, 2018

*****MAILING CERTIFICATE OF THE CLERK*****

RE: *SEALED*
4:18cv49 DN

Fil M. de Banate
FEDERAL TRADE COMMISSION
1111 SUPERIOR AVE E STE 200
CLEVELAND, OH 44114

Aimee Trujillo,