

ORIGINAL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA

_____)
 FEDERAL TRADE COMMISSION,)
 600 Pennsylvania Avenue, NW)
 Washington, DC 20580)
)
 Plaintiff,)
)
 v.)
)
 ONE OR MORE UNKNOWN PARTIES)
 DOING BUSINESS AS THE INSTITUTE FOR)
 INTERNATIONAL LICENSING, ALADDIN)
 FINANCIAL MANAGEMENT, UNIVERSITY)
 SYSTEMS, AND WHEELIE INTERNATIONAL)
 LIMITED,)
)
 Defendant(s).)
 _____)

Civil Action No. 03 0021

FILED

JAN - 9 2003

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

[proposed] **EX PARTE TEMPORARY RESTRAINING ORDER WITH AN ASSET FREEZE, AN ACCOUNTING, EXPEDITED DISCOVERY, AND OTHER EQUITABLE RELIEF AND ORDER FOR DEFENDANTS TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT BE ENTERED**

Plaintiff Federal Trade Commission ("FTC"), has filed a Complaint seeking a permanent injunction and other relief, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and an ex parte motion for a temporary restraining order with an asset freeze, an accounting, expedited discovery, and other equitable relief, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and LCvR 65.1. This Court has considered the pleadings and exhibits filed in support of the FTC's motion, and now being advised in the premises, finds that:

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

2. There is good cause to believe that One or More Unknown Parties Doing Business as the Institute for International Licensing, Aladdin Financial Management, University Systems, and ^{or} Wheelie International Limited have engaged and are likely to continue to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the FTC is therefore likely to prevail on the merits of this action;

3. 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;

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief in the form of consumer redress and disgorgement will occur from the transfer, dissipation or concealment by Defendants of their assets or business records unless Defendants are immediately restrained and enjoined by order of this Court, and that in accordance with Fed. R. Civ. P. 65(b), the interest of justice requires that the FTC's Motion be heard ex parte without prior notice to Defendants. In addition, the identities of the Defendant(s) are currently unknown. Therefore, there is good cause for relieving the FTC of the duty to provide Defendants with prior notice of the FTC's motion.

5. Good cause exists for ordering Defendants to provide an accounting of their business as set forth herein and permitting the FTC to take expedited discovery;

6. Weighing the equities and considering the FTC's likelihood of ultimate success, a temporary restraining order with an asset freeze, accounting, expedited discovery as to the

existence and location of assets and documents, and other equitable relief, is in the public interest;

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

8. This temporary restraining order is in the public interest.

IT IS THEREFORE ORDERED AS FOLLOWS:

DEFINITIONS

I. For the purposes of this Order, the following definitions shall apply:

A. "Defendants" means One or More Unknown Parties Doing Business as the Institute for International Licensing, Aladdin Financial Management, University Systems, and *for* Wheelie International Limited.

B. "Document(s)" or "record(s)" means

1. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and

2. Any information stored on any desktop personal computer ("PC") and workstations, laptops, notebooks, and other portable computers, whether assigned to individuals or in pools of computers available for shared use; and home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage,

whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by Defendants' participating associates, which may include persons who are not employees of the company or who do not work on company premises.

C. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables, funds, monies, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

D. "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.

E. "International Driving Permit" means any document called an international driving permit, international driver's license or any variation thereof.

ORDER PROHIBITING CERTAIN BUSINESS ACTIVITIES

II. IT IS HEREBY ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, and each of them, are hereby restrained and enjoined from making, or assisting others in making, directly or by implication, any false or misleading oral or written statement or representation in connection

with the advertising, marketing, promotion, offering for sale, distribution, or sale of any international driving permit, including but not limited to:

A. Misrepresenting, directly or by implication, that any international driving permit authorizes consumers to drive legally in the United States or any other country;

B. Misrepresenting, directly or by implication, that consumers who purchase any international driving permit may use it to avoid points for traffic violations;

C. Misrepresenting, directly or by implication, that consumers who purchase any international driving permit may use it to avoid sanctions for driving with a suspended or revoked government-issued driver's license;

D. Misrepresenting, directly or by implication, that any international driving permit can be used in the United States or any other government as an identification document in the same ways a person can use a government-issued photo identification document; and

E. Misrepresenting, directly or by implication, any other fact material to a consumer's decision to purchase any international driving permit.

ORDER TO THIRD PARTIES TO TEMPORARILY DISABLE WEB SITES

III. IT IS FURTHER ORDERED that, pending determination of the Commission's request for a preliminary injunction, any person or entity hosting any Web pages or Web sites for Defendants or their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise shall:

A. Immediately take whatever steps may be necessary to ensure that Web pages or Web sites operated, in whole or in part, under the names www.i-d-l.org,

www.henryheston.com.cnchost.com, and any other Web sites operated by Defendants or their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise that advertise, market, promote, offer for sale, distribute, or sell international driving permits, cannot be accessed by the public;

B. Prevent the destruction, or erasure of Web pages or Web sites operated, in whole or in part, under the names www.i-d-l.org, www.henryheston.com.cnchost.com, and any other Web sites operated Defendants or their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise that advertise, market, promote, offer for sale, distribute, or sell international driving permits, by preserving such documents in the format in which they are currently maintained; and

C. Immediately notify counsel for the FTC of any other Web page or Web site operated or controlled by Defendants.

**ORDER TO THIRD PARTIES TO TEMPORARILY SUSPEND INTERNET DOMAIN
NAME REGISTRATIONS**

IV. IT IS FURTHER ORDERED that, pending determination of the Commission's request for a preliminary injunction, any domain name registrar shall suspend the registration of www.i-d-l.org and www.henryheston.com.cnchost.com, and provide immediate notice to counsel for the FTC of any other Internet domain names registered by Defendants or their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise.

ASSET FREEZE

V. IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees, attorneys, and all persons or entities directly or indirectly under the control of any of them, including any financial institution, and all other persons or entities acting in concert or participation with any of them who are served with a copy of this Order by personal service, facsimile, or otherwise, are hereby temporarily restrained and enjoined from directly or indirectly:

A. Selling, liquidating, assigning, transferring, converting, loaning, encumbering, pledging, concealing, dissipating, spending, withdrawing, or otherwise disposing of any funds, real or personal property, or other assets or any interest therein, wherever located, including any assets outside the territorial United States, which are:

1. in the actual or constructive possession of any Defendant; or
2. owned or controlled by, or held, in whole or in part for the benefit of, or subject to access by, or belong to, any Defendant; or
3. in the actual or constructive possession of, or owned or controlled by, or subject to access by, or belong to, any corporation, partnership, trust or other entity directly or indirectly under the control of Defendant.

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

C. Incurring charges on any credit card issued in the name, singly or jointly, of any Defendant.

D. Transferring any funds or other assets subject to this Order for attorneys' fees or living expenses, except from accounts or other assets identified by prior written notice to the FTC and prior approval by the Court; provided that no attorneys' fees or living expenses, other than those set forth in Subparagraph E of this Paragraph V, and only in accordance with the procedures set forth in Subparagraph E of this Paragraph V, shall be paid from funds or other assets subject to this Order until the financial statements required by Paragraph VII are provided to counsel for the FTC.

E. Notwithstanding the above, any Defendant may pay from his personal funds reasonable, usual, ordinary, and necessary living expenses and attorney's fees, not to exceed \$1,000, prior to the submission of the financial statements required by Paragraph VII. No such expenses, however, shall be paid from funds subject to this Order except from cash on the person of any Defendant, or from an account designated by prior written notice to counsel for the FTC.

F. The funds, property and assets affected by this Paragraph shall include both existing assets and assets acquired after the effective date of this Order, including without limitation, those acquired by loan or gift. Defendants shall hold all assets, including without limitation, payments, loans, and gifts, received after service of this Order.

RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES

VI. IT IS FURTHER ORDERED that, pending determination of the FTC's request for a preliminary injunction, any financial institution, or any person or other entity served with a copy of this Order shall:

A. Hold and retain within such entity's or person's control, and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement,

dissipation, conversion, sale, liquidation, or other disposal of any funds, documents, property, or other assets held by or under such entity's or person's control:

1. on behalf of, or for the benefit of, any Defendant or other party subject to Paragraph V above;

2. in any account maintained in the name of, or subject to withdrawal by, any Defendant or other party subject to Paragraph V above;

3. that are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Paragraph V above;

B. Deny access to any safe deposit boxes that are either:

1. titled in the name, individually or jointly, of any Defendant or other party subject to Paragraph V above; or

2. subject to access by Defendant or other party subject to Paragraph V above.

C. Provide to counsel for the FTC, within three (3) days, a statement setting forth:

1. the identification of each account or asset titled in the name, individually or jointly, or held on behalf of, or for the benefit of, any Defendant or other party subject to Paragraph V above, whether in whole or in part;

2. the balance of each such account, or a description of the nature and value of such asset;

3. the identification of any safe deposit box that is either titled in the name of, individually or jointly, or is otherwise subject to access or control by, any Defendant or other party subject to Paragraph V above, whether in whole or in part; and

4. if the account, safe deposit box, or other asset has been closed or removed, the date closed or removed and the balance on said date.

D. The accounts subject to this provision include existing assets and assets deposited after the effective date of this Order. This Paragraph shall not prohibit transfers in accordance with any provision of this Order, or any further order of the Court.

E. The FTC is granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena documents immediately from any such financial institution, account custodian, or other entity concerning the nature, location, status, and extent of Defendants' assets, and compliance with this Order, and such financial institution, account custodian or other entity shall respond to such subpoena within five business days after service.

FINANCIAL STATEMENTS AND ACCOUNTING

VII. IT IS FURTHER ORDERED that at least (3) three days prior to the preliminary injunction hearing in this matter, and in no event later than ten calendar days after entry of this order, each Defendant shall provide counsel for the Commission:

A. A completed financial statement accurate as of the date of service of this Order upon such Defendant (individual Defendants shall include all financial information as requested in the Department of Treasury – Internal Revenue Service Collection Information Statement for Individuals (Form 433-A) attached to this Order as Attachment A and also located at <http://www.irs.gov/pub/irs-pdf/f433a.pdf>); corporate Defendants shall include all financial information as requested in the corresponding Collection Information Statement for Businesses (Form 433 – B) attached to this Order as Attachment B and also located at <http://www.irs.gov/pub/irs-pdf/f433b.pdf>); and

B. A completed statement, verified under oath, of all payments, transfers, or assignment of funds, assets, or property worth \$1,000 or more since January 1, 2001. Such statement shall include (a) the amount transferred or assigned; (b) the name of each transferee or assignee; (c) the date of the assignment or transfer; (d) the type and amount of consideration paid the Defendant. Each statement shall specify the name and address of each financial institution and brokerage firm at which the Defendant has accounts or safe deposit boxes. Said statements shall include assets held in foreign as well as domestic accounts.

C. For all products or services advertised, marketed, promoted, offered for sale, distributed, or sold by Defendants, a detailed accounting, verified under oath, of:

1. all gross revenues obtained from the sale of each such product or service (broken down by month) from inception of sales through the date of the issuance of this Order;
2. all net profits obtained from the sale of each such product or service (broken down by month) from inception of sales through the date of the issuance of this Order;
3. the total amount of each such product or service sold; and
4. the full names, addresses, and telephone numbers of all purchasers of each such product or service.

REPATRIATION OF FOREIGN ASSETS

VIII. IT IS FURTHER ORDERED that, within five business days following the service of this Order, Defendants shall:

A. Provide the FTC with a full accounting of all assets, accounts or documents outside of the territory of the United States which are held either: (1) by them; (2) for their

benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly;

B. transfer to the territory of the United States all assets, accounts or documents in foreign countries held either: (1) by them; (2) for their benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly;

C. hold and retain all repatriated assets, accounts or document and prevent any transfer, disposition, or dissipation whatsoever of any such assets or documents except as allowed by Paragraph V of this Order; and

D. provide the FTC access to Defendants' records and documents held by financial institutions outside the territorial United States, by signing the Consent to Release of Financial Records attached to this Order as Attachment C.

NONINTERFERENCE WITH REPATRIATION

IX. 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, email 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 that all assets have been fully repatriated pursuant to Paragraph VIII of this Order;

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 that all assets have been fully repatriated pursuant to Paragraph VIII of this Order.

EXPEDITED DISCOVERY

X. IT IS FURTHER ORDERED that in light of the need to promptly ascertain the possible consumer injury caused by Defendants' deceptive practices and false advertising as alleged by plaintiff, the need to identify the identities and locations of Defendants and their participating associates, the need to identify assets and documents subject to this Order, and the need to monitor compliance with this Order, the FTC is granted leave to conduct certain expedited discovery, and that, commencing with the time and date of this Order, in lieu of the time periods, notice provisions, and other requirements of Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, and Local Rules 16.3, 26.2, 30.1, expedited discovery shall proceed as follows:

A. Pursuant to Fed. R. Civ. P. 30 and 45, and LCvR 26.2, and 30.1, the FTC may take depositions upon oral examination of any person or entity, including any Defendant or third party, regarding Defendants' identities, their whereabouts; the nature, location, status and extent of their assets; the status and location of Defendants' products; the status and location of documents reflecting Defendant's business transactions; and compliance with this Order, on two days notice of any such deposition. This Subparagraph shall not be construed in any manner to preclude the right of plaintiff to take subsequent depositions of the same witnesses on the merits of this action. Any deposition taken pursuant to this Subparagraph is in addition to, and not subject to, the presumptive limits on depositions set forth in Fed. R. Civ. P. 30(a)(2)(A).

B. Pursuant to Fed. R. Civ. P. 34(b) and 45, and LCvR 26.2, and 30.1, the Defendants, their participating associates, and any other person or entity shall produce documents

relating to the above that are requested by the FTC, within five (5) days of service of such request, with production of documents made to such person or place as counsel for the FTC may direct in writing.

WITHHOLDING OF MAIL SENT TO COMMERCIAL MAIL RECEIVING AGENCIES

XI. IT IS FURTHER ORDERED that ^{the RMC} ~~all~~ Commercial Mail Receiving Agencies ^{RMC} ("CMRA") where Defendants maintain accounts, ~~including those~~ ^{RMC} at 256 S. Robertson Blvd, Beverly Hills, California, shall, for the duration of this Order, retain and forward to Plaintiff, at the address designated in Paragraph XVIII below, all mail received at the CMRA that is addressed to any name under which Defendants are doing business, including Institute for International Licensing, Aladdin Financial Management, University Systems, and Wheelie International Limited.

RECORD KEEPING PROVISIONS

XII. IT IS FURTHER ORDERED that Defendants, and their participating associates, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile, or otherwise, are hereby enjoined from:

A. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any weight-loss product advertised, marketed, promoted, offered for sale, distributed, sold or purchased by Defendants.

B. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, contracts, agreements, customer files, customer lists, customer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, training material, sales presentations, documents evidencing or referring to Defendants' products, data, computer tapes, disks, or other computerized records,

books, written or printed records, handwritten notes, telephone logs, “verification” or “compliance” tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind, including electronically-stored materials, that relate to the business practices or business or personal finances of Defendants or other entity directly or indirectly under the control of Defendants; and

C. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use of monies by Defendant or other entity directly or indirectly under the control of Defendants.

NOTICE TO EMPLOYEES

XIII. IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, and participating associates. Within ten (10) calendar days following service of this Order by the FTC, Defendants shall provide the FTC with an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities that Defendants have served with a copy of this Order in compliance with this provision.

CONSUMER REPORTS

XIV. IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning any Defendant to the FTC.

JAN - 9 2003

ORDER TO SHOW CAUSE

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

XV. IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 65(b), and LCvR 65.1, that Defendants shall appear on the 24th day of January, 2003, at 9:30 A.m. at the United States Courthouse, Courtroom 4, Washington, D.C., to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the complaint, against Defendants enjoining them from further violations of the FTC Act, continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

EXPIRATION OF THIS ORDER

XVI. IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on 24th January, 2003, at 11:59 PM, unless within such time the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

SERVICE OF PLEADINGS; EVIDENCE, WITNESS LISTS

XVII. IT IS FURTHER ORDERED that

A. Defendants shall file any answering affidavits, pleadings, or legal memoranda with the Court and serve the same on counsel for the FTC no later than three business days prior to the preliminary injunction hearing in this matter. The FTC may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one business day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4 p.m. (EDT) on the appropriate dates listed in this sub-paragraph.

B. The question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by and oral argument of the parties. Live testimony shall be heard only on further order of this Court on motion filed with the Court and served on counsel for the other parties at least three business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness' expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to live testimony to be presented by another party shall be filed with this Court and served on the other parties at least two business days prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4 p.m. (EDT) on the appropriate dates listed in this sub-paragraph.

CORRESPONDENCE WITH PLAINTIFF

XVIII. For the purposes of this Order, all service on and correspondence to the FTC shall be addressed to: Gregory A. Ashe, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room NJ-2122, Washington, DC 20580. Telephone: (202) 326-3719; Facsimile: (202) 326-2558.

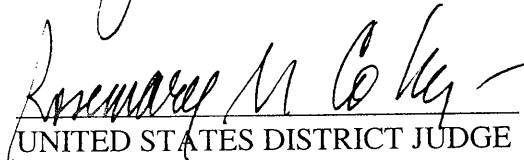
SERVICE OF THIS ORDER

XIX. IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, email transmission, personal or overnight delivery, or U.S. Mail, by agents and employees of the FTC or any state or federal law enforcement agency or by private process server, on (1) Defendants, (2) any financial institution, 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, or (3) any other person or entity that may be subject to any provision of this Order.

RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 9th day of January, 2003, at 12:30 p.m.


UNITED STATES DISTRICT JUDGE