

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

FEDERAL TRADE COMMISSION, STATE
OF ARIZONA, and STATE OF
WASHINGTON,

Plaintiffs,

v.

WIN USA SERVICES LTD.,
IRAL SERVICES INC.,
IRAL ENTERPRISES INC.,
MICHAEL GHIRRA, and
BOBBY GHIRRA,

Defendants,

and
HARI BANS GHIRRA,

Relief Defendant.

Civ. No. C98-1614Z

**STIPULATED ORDER RE:
REDRESS PAYMENTS BY
DEFENDANTS AND RELIEF
DEFENDANT**

23 On April 13, 2000, this Court granted Plaintiffs' Motion for Summary Judgment as to all
24 Defendants and Relief Defendant in this case and entered a Final Judgment and Order for
25 Permanent Injunction ("Permanent Injunction"). The Permanent Injunction includes a provision,
26 entitled Section II, Monetary Relief ("Section II"), requiring Defendants to pay consumer redress
27 in the amount of \$3,189,373.69 in Canadian dollars ("CAN"), and requiring the Relief Defendant
28 to pay consumer redress in the amount of \$515,379 (CAN), with payment of the latter amount to

1 offset the amount to be paid by Defendants.

2 On November 17, 1998, the British Columbia Ministry of Attorney General (“B.C.
3 Ministry”), filed an action against these individual defendants and others for the same practices as
4 those alleged in Plaintiffs’ complaint. As a result of that action, the B.C. Ministry has frozen
5 certain funds and other assets, including those of the Defendants and the Relief Defendant in this
6 case. According to the British Columbia Director of Trade Practices, the amount of funds held
7 frozen by the Ministry is \$605,312 (CAN), including approximately \$130,000 in retirement
8 accounts that are not currently accessible by the account holders or otherwise available for
9 consumer redress.

10 In light of these facts, the parties have determined that payment of consumer redress by
11 Defendants and the Relief Defendant in the amount of \$500,000 (CAN) shall satisfy Section II of
12 the Permanent Injunction and therefore request entry of the following stipulated order:

13 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

14 1. Plaintiffs shall recover and Defendants and Relief Defendant shall pay consumer
15 redress in the amount of \$500,000 (CAN). Such amount shall be paid by Defendants and Relief
16 Defendant to the British Columbia Director of Trade Practices (“Director”).

17 2. The Director may deduct from this amount any costs of his action against Win
18 U.S.A., *et al.*, and this Stipulated Order is premised on payment by the Director to the Regional
19 Director, Northwest Region, Federal Trade Commission, of the remaining balance.

20 3. These funds will be used to provide redress to consumers injured by Defendants'
21 violations of the Telemarketing Sales Rule, the Federal Trade Commission Act, the Washington
22 Unfair Business Practices-Consumer Protection Act, the Washington Commercial Telephone
23 Solicitation Act, and the Arizona Consumer Fraud Act after first paying all expenses of
24 administering the redress distribution. If Plaintiffs determine, in their sole discretion, that redress
25 is wholly or partially impracticable, any funds not so used shall first be applied toward attendant
26 expenses of administration and costs of bringing this action as to Plaintiff State of Arizona, in the
27 amount of \$5,000 (U.S.), and as to Plaintiff State of Washington, in the amount of \$18,000
28 (U.S.), with any remaining balance paid to the United States Treasury as disgorgement.

1 Defendants and Relief Defendant may be notified as to how funds are disbursed, but shall have no
2 right to contest the manner of distribution chosen by Plaintiffs.

3 4. In order to facilitate consumer redress, Defendants shall authorize the B.C.
4 Ministry to provide to Plaintiffs, within 30 days of the entry of this Order, the Defendants'
5 customer list, *i.e.*, a list of the names, addresses, telephone numbers, dates of purchase, methods
6 of payment and amounts paid, of all consumers who provided funds to the Defendants for the
7 purchase of chances or interests in foreign lottery tickets, which list is currently in the possession
8 of the B.C. Ministry. If such information is available through data which is stored on a computer,
9 Defendants shall describe for Plaintiffs, accurately and with particularity, the means by which the
10 information can be accessed.

11 5. The Plaintiffs' agreement to this Order, requiring that Defendants and Relief
12 Defendant be liable for less than the full amount of the Judgment in this case, is expressly
13 premised upon the truthfulness, accuracy and completeness of Defendants' and Relief Defendant's
14 financial statements, dated June 26, 2000, that were submitted to the Federal Trade Commission,
15 when read together with the report of Thorsteinsons, Barristers and Solicitors, to Waddell,
16 Raponi, Barristers and Solicitors, dated December 2, 1999. Such financial statements contain
17 material information upon which the Plaintiffs relied in negotiating and agreeing to this Order. If,
18 upon motion by the Plaintiffs or any one of them, this Court finds that any Defendant or the Relief
19 Defendant has failed to disclose any material asset or materially misstated the value of any asset in
20 any financial statement described above, or made any other material misstatement or omission in
21 any financial statement described above, such Defendant or the Relief Defendant, as the case may
22 be, shall be deemed to have breached the terms of the agreement underlying this Order.

23 6. In the event that Defendants breach the terms of the agreement underlying this
24 Order as set forth in Paragraph 5 herein, the full amount of consumer redress as set forth in
25 Section II (A) of the Permanent Injunction shall immediately become due and payable by
26 Defendants to the Federal Trade Commission, less the amount paid to the Director pursuant to
27 Paragraph 1 of this Stipulated Order.

28 7. In the event that the Relief Defendant breaches the terms of the agreement

1 underlying this Order as set forth in Paragraph 5 herein, the full amount of consumer redress as
2 set forth in Section II (B) of the Permanent Injunction shall immediately become due and payable
3 by the Relief Defendant to the Federal Trade Commission, less the amount paid to the Director
4 pursuant to Paragraph 1 of this Stipulated Order.

5 8. Section II of the Permanent Injunction shall remain in full force and effect unless
6 and until such time as the Plaintiffs file a Satisfaction of Judgment with this Court. Plaintiffs shall
7 not file a Satisfaction of Judgment with the Court unless and until all of the terms and conditions
8 of this Order have been met, including but not limited to full payment as set forth in Paragraphs 1
9 and 2 herein. Filing a Satisfaction of Judgment shall affect only Section II of the Permanent
10 Injunction; all other portions of the Permanent Injunction shall remain in full force and effect at all
11 times.

12 9. Defendants and Relief Defendant waive all claims under the Equal Access to
13 Justice Act, 28 U.S.C. § 2412, and all rights to seek appellate review or otherwise to challenge
14 the validity of this Stipulated Order or the Permanent Injunction.

15
16
17 SO ORDERED, this _____ day of _____, 2000.

18
19 _____
HON. THOMAS S. ZILLY
United States District Judge

20
21 The parties hereby consent to the terms and conditions set forth above and consent to entry of this
22 Order without further notice to the parties.

23
24 _____
MARY T. BENFIELD
ELEANOR DURHAM
Attorneys for Plaintiff
Federal Trade Commission

25
26
27 _____
SYDNEY K. DAVIS

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

Attorney for Plaintiff
State of Arizona

PAULA SELIS
Attorney for Plaintiff
State of Washington

BOBBY GHIRRA

HARI BANS GHIRRA

RICHARD J. TROBERMAN
Attorney for Defendant Bobby Ghirra and
Relief Defendant Hari Bans Ghirra

MICHAEL GHIRRA, Individually

MICHAEL GHIRRA, as President of Win
USA Services Ltd., IRAL Services Inc., and
IRAL Enterprises Inc.