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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

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FEDERAL TRADE COMMISSION,
Plaintiff,
PATRICK CELLA, an individual,
d/b/a QUIK CASH, U-MAIL,
INNOVATIVE SERVICES,
CENTRAL SOLUTIONS,
PARALLAX BUSINESS SERVICES,
and ACE DISTRIBUTING CENTER,
IRENE HERRERA, an individual,
d/b/a QUIK CASH, INNOVATIVE
SERVICES, CENTRAL SOLUTIONS
and EXECUTIVE WORLDWIDE,
JAMES ZEZULA, an individual, d/b/a
EASY MONEY, COAST
DISTRIBUTING and CREDIT
SOLUTIONS, and
VINCENT ZEZULA, an individual,
d/b/a COAST DISTRIBUTING and
EXECUTIVE WORLDWIDE,
Defendants.

CV-03-3202 GAF (SHSx)

STIPULATED
PRELIMINARY INJUNCTION
WITH ASSET FREEZE AND
OTHER EQUITABLE RELIEF
AS TO DEFENDANT
PATRICK CELLA

26

1 Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), having
2 filed its Complaint for a permanent injunction and other relief in this matter, pursuant
3 to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.
4 § 53(b), and the Court having issued an ex parte Temporary Restraining Order,
5 considered the pleadings, evidence, memoranda of law and argument of counsel of
6 the parties, finds that:

7 1. This Court has jurisdiction over the subject matter of this case, and there
8 is good cause to believe it will have jurisdiction of all parties hereto, pursuant to 15
9 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345. The Complaint
10 states a claim upon which relief may be granted under Sections 5 and 13(b) of the
11 FTC Act, 15 U.S.C. §§ 45 and 53(b);

12 2. There is good cause to believe that Defendant has engaged in and is
13 likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15
14 U.S.C. § 45(a), and that the Commission has therefore demonstrated a substantial
15 likelihood of prevailing on the merits of this action;

16 3. Unless the Court continues the asset freeze, there is a substantial
17 likelihood that Defendant will conceal, dissipate, or otherwise divert his assets, and
18 defeat the Court's ability to grant effective final relief in the form of equitable
19 monetary relief for consumers. Defendant has likely retained ill-gotten gains derived
20 from his deceptive practices, including: misrepresenting to consumers that they are
21 likely to earn a substantial amount of money after purchasing Defendant's Work-At-
22 Home Opportunity; falsely claiming that he will provide pamphlets for mailing with
23 pre-addressed, pre-stamped envelopes, and that he will pay consumers \$1 for each
24 stuffed envelope; falsely promising that he will provide refunds to consumers;
25 providing consumers with the means and instrumentalities to commit deceptive acts
26 and practices by furnishing them with false and misleading materials, including an
27 instruction booklet, a sales pamphlet, and a credit repair manual; and misrepresenting
28 his identity by suggesting he has an affiliation with well-known email service

1 providers. An asset freeze is reasonably necessary in order to preserve the possibility
2 of complete and meaningful relief at the conclusion of this litigation.

3 4. Weighing the equities and considering the Commission's likelihood of
4 ultimate success, a Preliminary Injunction with an asset freeze and other equitable
5 relief is in the public interest; and

6 5. No security is required of any agency of the United States for issuance
7 of a preliminary injunction. Fed. R. Civ. P. 65(c).

8 **ORDER**

9 **Definitions**

10 A. "Assets" means any legal or equitable interest in, right to, or claim to,
11 any real and personal property, including but not limited to chattel, goods,
12 instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises,
13 contracts, mail or other deliveries, shares of stock, lists of consumer names,
14 inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever
15 located.

16 B. "Defendant" means Patrick Cella, individually and d/b/a Quik Cash, U-
17 Mail, Innovative Services, Central Solutions, Parallax Business Services, and Ace
18 Distributing Center; any other d/b/a names associated with this individual; and his
19 officers, agents, servants, employees, and all persons or entities in active concert or
20 participation with him who receive notice of this order by personal service or
21 otherwise.

22 C. "Document" is synonymous in meaning and equal in scope to the usage
23 of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings,
24 graphs, charts, photographs, audio and video recordings, computer records, and other
25 data compilations from which information can be obtained and translated, if
26 necessary, into reasonably usable form through detection devices. A draft or non-
27 identical copy is a separate document within the meaning of the term.

28 D. "Material" means likely to affect a person's choice of, or conduct

1 regarding, goods or services.

2 E. "Plaintiff" means the Federal Trade Commission ("Commission").

3 F. "Relate to" means refer to, concern, regard, reflect, discuss, constitute,
4 mention, pertain to, allude to or associate with. "Relating to" means referring to,
5 concerning, regarding, reflecting, discussing, constituting, mentioning, pertaining to,
6 alluding to or associated with.

7 G. "Work-At-Home Opportunity" means any program, plan, product or
8 service that enables a participant or purchaser to earn money by working at home.

9 **I. INJUNCTION AGAINST**
10 **MISREPRESENTATIONS**

11 **IT IS THEREFORE ORDERED** that in connection with the advertising,
12 promotion, offering or sale of goods or services in or affecting commerce, Defendant
13 is hereby preliminarily restrained and enjoined from making, or assisting others in
14 making, any express or implied representation or omission of material fact that is
15 false or misleading, in any manner, directly or indirectly, to any consumer or entity,
16 including, but not limited to, the following:

17 A. Representing that consumers are likely to earn a substantial amount of
18 money from Defendant's Work-At-Home Opportunity;

19 B. Representing that Defendant will provide consumers with pamphlets for
20 mailing with pre-addressed, pre-stamped envelopes to stuff;

21 C. Representing that Defendant will pay consumers for each envelope they
22 stuff and mail;

23 D. Representing that Defendant will fully refund consumers' payments;

24 E. Representing that Defendant is affiliated with Internet-related businesses,
25 including, but not limited to, Hotmail, MSN or Pacific Bell, or a company affiliated
26 with these businesses;

27 F. Representing the nature of any Work-At-Home Opportunity offered or
28 sold;

1 G. Representing any material term, condition, or limitation of the transaction
2 or about the use of any offered good or service; and

3 H. Representing that Defendant or any other person can improve any
4 consumers' credit record, credit history, or credit rating by removing or obtaining
5 removal of negative information that is accurate and not obsolete from such credit
6 record, credit history, or credit rating.

7 **II. INJUNCTION AGAINST PROVIDING OTHERS WITH**
8 **THE MEANS AND INSTRUMENTALITIES TO**
9 **VIOLATE SECTION 5 OF THE FTC ACT**

10 **IT IS FURTHER ORDERED** that in connection with the offering for sale or
11 sale of credit repair manuals and credit repair sales brochures, Defendant is hereby
12 preliminarily restrained and enjoined from providing to others the means and
13 instrumentalities with which to make, expressly or by implication, orally or in
14 writing, any false or misleading statement or representation of material fact,
15 including, but not limited to:

16 A. Any fact material to a consumer's decision to purchase Defendant's
17 services or products;

18 B. Any statement that anyone can substantially improve consumers' credit
19 reports or profiles by effectuating permanent lawful removal of bankruptcies,
20 foreclosures, slow payments, court judgments, liens, or other negative information
21 from consumers' credit reports where such information is accurate and not obsolete;
22 and

23 C. Any statement that consumers' credit reports or profiles can be
24 substantially improved by effectuating permanent lawful removal of bankruptcies,
25 foreclosures, slow payments, court judgments, liens, or other negative information
26 from consumers' credit reports where such information is accurate and not obsolete.

27 **III. ASSET FREEZE**

28 **IT IS FURTHER ORDERED** that Defendant who receives actual notice of

1 this Order by personal service, facsimile or otherwise, is hereby preliminarily
2 restrained and enjoined from:

3 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
4 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing,
5 perfecting a security interest in, or otherwise disposing of any assets, wherever
6 located, inside or outside the United States of America, that are: (1) held on behalf,
7 for the benefit of, or owned or controlled, directly or indirectly, by Defendant in
8 whole or in part, including but not limited to property, bank accounts, or other assets
9 where the title is taken in his or her name, as joint tenancy or common ownership
10 with a non-party, co-owned with a spouse, or held in trust; (2) in the actual or
11 constructive possession of Defendant; or (3) owned, controlled by, or in the actual or
12 constructive possession of any corporation, partnership, or other entity directly or
13 indirectly owned, managed, or controlled by, or under common control of Defendant,
14 including but not limited to any assets held for by, or under the name of, Defendant or
15 subject to access by Defendant at any bank or savings and loan institution or with any
16 broker, dealer, escrow agent, title company, commodity trading company, precious
17 metal dealer, or other financial institution or depository of any kind;

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

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

22 D. Obtaining a personal or secured loan in the name of Defendant, singly or
23 jointly; and

24 E. Incurring liens or other encumbrances on real property, personal property
25 or other assets in the name, singly or jointly, of Defendant.

26 Provided, however, that the assets affected by this Paragraph shall include: (1)
27 all of the assets of Defendant existing as of the date this Order was entered; and (2)
28 for assets obtained after the date this Order was entered, only those assets of

1 Defendant that are derived from or otherwise related to the sale of Work-At-Home
2 Opportunities.

3 **IV. RETENTION OF ASSETS AND RECORDS BY**
4 **FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES**

5 **IT IS FURTHER ORDERED** that any financial or brokerage institution,
6 escrow agent, title company, commodity trading company, business entity, or person
7 served with a copy of this Order that holds, controls or maintains custody of any
8 accounts or assets of Defendant, or has held, controlled or maintained any accounts or
9 assets of Defendant at any time since November 1, 1999 shall continue to:

10 A. Hold and retain within its control and prohibit Defendant from
11 withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing,
12 dissipating, converting, selling, or otherwise disposing of any account, funds,
13 property or other asset:

- 14 1. Maintained in the name of, or subject to withdrawal or access by
15 Defendant;
16 2. Held on behalf or for the benefit of Defendant; or
17 3. Subject to access or use by Defendant.

18 Provided, however, that this Order shall not:

19 (i) prohibit transfers as directed by further order of the Court;

20 or

21 (ii) prohibit transfers for specific transfers authorized in writing
22 by counsel for the Commission.

23 B. Deny Defendant access to any safe deposit box that is:

- 24 1. Titled in the name of Defendant, either individually or jointly; or
25 2. Otherwise subject to access by Defendant, either individually or
26 jointly.

27 C. The Commission is granted leave, pursuant to Fed. R. Civ. P. 45, and
28 notwithstanding Fed. R. Civ. P. 26, to subpoena documents immediately from any

1 such financial institution, account custodian, or other aforementioned entity
2 concerning the nature, location, status, and extent of Defendant's assets, and
3 compliance with this Order.

4 **V. REPATRIATION OF ASSETS AND DOCUMENTS**
5 **LOCATED IN FOREIGN COUNTRIES**

6 **IT IS FURTHER ORDERED** that Defendant, whether acting through any
7 trust, corporation, subsidiary, division, or other device, shall have a continuing duty
8 to:

9 A. Take such steps as are necessary to transfer to the territory of the United
10 States of America all documents and assets that are located outside of such territory
11 and are held by or for Defendant or are under Defendant's direct or indirect control,
12 jointly, severally, or individually. In the case of any liquid assets held in foreign
13 countries, Defendant shall transfer such assets to one domestic account in California,
14 titled in that Defendant's name and designated prior to any transfer by written notice
15 to the Commission, such written notice to state the amount of the transfer and identify
16 the domestic account by financial institution, title holder and account number;

17 B. Provide the Plaintiff with a full accounting of all documents and assets
18 that are located outside of the territory of the United States of America and are held
19 by or for Defendant or are under Defendant's direct or indirect control, jointly,
20 severally, or individually;

21 C. Hold and retain all transferred documents and assets and prevent any
22 transfer, disposition, or dissipation whatsoever of any such assets or funds; and

23 D. Shall, to the extent not already provided pursuant to the Temporary
24 Restraining Order, provide the Plaintiff access to Defendant's records and documents
25 held by financial institutions outside the territorial United States, by signing the
26 Consent to Release of Financial Records attached to the Temporary Restraining Order
27 as Attachment A.

28

1 statement; and

2 C. Such financial statements and such updated versions of such financial
3 statements shall include a full accounting of all assets and documents that are located
4 inside or outside of the territory of the United States of America and are held by or
5 for Defendant or are under Defendant's direct or indirect control, jointly, severally, or
6 individually.

7 **VIII. CONSUMER CREDIT REPORTS**

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

11 **IX. PLAINTIFF'S ACCESS TO BUSINESS RECORDS**

12 **IT IS FURTHER ORDERED** that Defendant shall, to the extent not already
13 done so pursuant to the Temporary Restraining Order, allow Plaintiff's
14 representatives, agents, and assistants access to all of Defendant's business records to
15 inspect and copy documents. Accordingly, to the extent not already done so pursuant
16 to the Temporary Restraining Order, Defendant shall immediately:

17 A. Produce to Plaintiff for inspection, inventory and/or copying, at the
18 FTC's Western Regional Office located at 10877 Wilshire Blvd., Ste. 700, Los
19 Angeles, CA 90024, or at another location designated by Plaintiff, all materials
20 related or referring, directly or indirectly, to Defendant's offer, sale, or provision of
21 their Work-At-Home Opportunity and/or any materials, information, products or data
22 related thereto, including, but not limited to, consumer identification or financial
23 information obtained through or as a result of email solicitations, computers,
24 computerized files, storage media (including, but not limited to, floppy disks, hard
25 drives, cd-roms, zip disks, punch cards, magnetic tape, backup tapes and computer
26 chips) on which information has been saved, any and all equipment needed to read
27 any such material, contracts, accounting data, correspondence (including, but not
28 limited to, electronic correspondence), advertisements (including, but not limited to,

1 advertisements placed on the World Wide Web), USENET Newsgroup postings,
2 World Wide Web pages, books, written or printed records, handwritten notes, receipt
3 books, ledgers, personal and business canceled checks and check registers, bank
4 statements, appointment books, copies of federal, state or local business or personal
5 income or property tax returns, 1099 forms, and other documents or records of any
6 kind that relate to Defendant's business practices; and

7 B. Produce to Plaintiff for inspection, inventory and/or copying, at the
8 FTC's Western Regional Office located at 10877 Wilshire Blvd., Ste. 700, Los
9 Angeles, CA 90024, or at another location designated by Plaintiff, all computers and
10 data in whatever form, used by Defendant, in whole or in part, relating to Defendant's
11 business practices.

12 The Commission shall return materials produced by Defendant pursuant to this
13 Paragraph within five (5) business days of completing said inventory and copying.

14 X. PRESERVATION OF RECORDS

15 **IT IS FURTHER ORDERED** that Defendant is hereby preliminarily
16 restrained and enjoined from destroying, erasing, mutilating, concealing, altering,
17 transferring or otherwise disposing of, in any manner, directly or indirectly, any
18 documents that relate to the business practices or business or personal finances of
19 Defendant, including, but not limited to, consumer identification or financial
20 information obtained through or as a result of email solicitations, computers,
21 computerized files, storage media (including but not limited to floppy disks, hard
22 drives, cd-roms, zip disks, punch cards, magnetic tape, backup tapes and computer
23 chips) on which information has been saved, any and all equipment needed to read
24 any such material, contracts, accounting data, correspondence (including, but not
25 limited to, electronic correspondence), advertisements (including, but not limited to,
26 advertisements placed on the World Wide Web), USENET Newsgroup postings,
27 World Wide Web pages, books, written or printed records, handwritten notes, receipt
28 books, ledgers, personal and business canceled checks and check registers, bank

1 statements, appointment books, copies of federal, state or local business or personal
2 income or property tax returns, 1099 forms, and other documents or records of any
3 kind that relate to Defendant's business practices.

4 **XI. MAINTENANCE OF CURRENT BUSINESS RECORDS**

5 **IT IS FURTHER ORDERED** that Defendant is hereby preliminarily
6 restrained and enjoined from:

7 A. Failing to create and maintain documents that, in reasonable detail,
8 accurately, fairly, and completely reflect their incomes, disbursements, transactions,
9 and use of money; and

10 B. Creating, operating, or exercising any control over any business entity,
11 including any partnership, limited partnership, joint venture, sole proprietorship or
12 corporation, without first providing Plaintiff with a written statement disclosing: (1)
13 the name of the business entity; (2) the address and telephone number of the business
14 entity; (3) the names of the business entity's officers, directors, principals, managers
15 and employees; and (4) a detailed description of the business entity's intended
16 activities.

17 **XII. NON-DISCLOSURE OF CONSUMER LISTS**

18 **IT IS FURTHER ORDERED** that Defendant is preliminarily restrained and
19 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name,
20 date of birth, address, telephone number, credit card number, bank account number,
21 email address, or other identifying information of any person who submitted such
22 information to Defendant at any time prior to entry of this Order, in connection with
23 the advertising, promotion, telemarketing, offering for sale, or sale of any product or
24 service in or affecting commerce, provided, however, that Defendant may disclose
25 such identifying information to a law enforcement agency, or as required by any law,
26 regulation or court order.

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28

1 **XIII. WITHHOLDING OF MAIL SENT TO**
2 **COMMERCIAL MAIL RECEIVING AGENCIES**

3 **IT IS FURTHER ORDERED** that all commercial mail receiving agencies
4 (“CMRAs”) where Defendant maintains accounts and who receive actual notice of
5 this Order by personal service or otherwise, shall, for the duration of this Order, retain
6 and forward by overnight delivery to Plaintiff, at the address designated in Paragraph
7 XV below, all mail received at the CMRA that is addressed to Defendant.

8 **XIV. SERVICE OF ORDER**

9 **IT IS FURTHER ORDERED** that copies of this Order may be served by any
10 means, including facsimile transmission, upon any financial institution or other entity
11 or person that may have possession, custody, or control of any documents or assets of
12 Defendant, or that may otherwise be subject to any Paragraph of this Order. Service
13 upon any branch or office of any financial institution shall effect service upon the
14 entire financial institution. Pursuant to Fed. R. Civ. P. 4(c)(2), this Order and any
15 subpoenas issued during the pendency of this Order may be served by agents or
16 attorneys of the Commission.

17 **XV. SERVICE UPON PLAINTIFF**

18 **IT IS FURTHER ORDERED**, with regard to any correspondence or
19 pleadings related to this Order, service on the Commission shall be performed by
20 overnight delivery to the attention of Michael Davis, Division of Marketing Practices,
21 Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room H-238,

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 Washington, DC 20580, (202) 326-2458, or by facsimile transmission to (202) 326-
2 3395.

3 **XVI. RETENTION OF JURISDICTION**

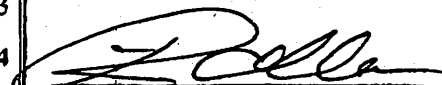
4 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this
5 matter for all purposes.


6
7 **SO ORDERED**, this 28th day of May, 2003, at 4:55 p.m.

8
9
10 
11 United States District Judge

12 It is so stipulated:

13 It is so stipulated:

14 
15 Patrick Cella, d/b/a Quik Cash, U-Mail,
16 Innovative Services, Central Solutions,
17 Parallax Business Services, and Ace
18 Distributing Center

19 
20 Michael J. Davis
21 Colleen B. Robbins
22 Attorneys for Plaintiff
23 Federal Trade Commission
24 600 Pennsylvania Ave
25 Washington, DC 20580
26 (202) 326-2458

27 Dated: 5/27/03

28 Dated: 5-27-03