

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No17-cv-194
)	
v.)	Judge Kennelly
)	
CREDIT BUREAU CENTER, LLC,)	

Order to Show Cause Why a Preliminary Injunction Should Not Issue (“TRO”) pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65.

The TRO having been granted (Dkt. No. 16) notice thereof having been provided to Defendants, and the Court having considered all pleadings, memoranda, declarations, and other exhibits filed herein, and being fully advised in the premises, it is now ORDERED, ADJUDGED AND DECREED as follows:

FINDINGS

1.

5. There is ~~reasonable basis~~ believe that immediate and irreparable harm will result from the CBC Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), Section 4(1) and (2) of ROSCA, 15 U.S.C. § 8403(1) & (2), Section 612(g) of the FCRA, 15 U.S.C. § 1681j(g), and the Free Reports Rule, 12 C.F.R. §§ 1022.21-38, unless the CBC Defendants are restrained and enjoined by Order of this Court;

6. There is ~~reasonable basis~~ 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, or other disposition or concealment by the CBC Defendants of the ~~sites~~ or records, unless the CBC Defendants are restrained and enjoined by Order of this Court. Therefore, there is good cause for an asset freeze and the appointment of a permanent receiver over the Receivership Defendant, as that term is defined herein~~and~~

7. The FTC is an independent agency of the United States of America and no security is required of any agency of the United States for the issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

DEFINITIONS

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

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and ~~alc~~cash, wherever located.

2. "Assisting Others" includes, but is not limited to: (1) providing administrative services, including, but not limited to, filing business registrations with federal, state, or local government entities; (2) acting as an officer, director, or registered agent of a business entity; (3) establishing bank and/or merchant accounts; (4) handling banking transactions; (5) establishing mail accounts and/or mail receiving boxes; (6) forwarding mail received from consumers; (7) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (8) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing materials; (9) providing names of, or assisting in the generation of, potential customers; (10) performing or providing marketing or billing services of any kind.

3. "Corporate Defendant" means Credit Bureau Center, LLC, a Delaware limited

2. That consumers must affirmatively cancel the negative option continuity plan before the end of a trial period to avoid additional charges

3. That consumers' credit or debit card information will be used to charge consumers monthly for the negative option continuity plan;

4. The costs associated with the negative option continuity plan; and

5. The means consumers must use to cancel the negative option continuity plan to avoid additional charges

C. Violating or assisting others in violating, any provision of ROSCA, 15 U.S.C. §§ 8401 et seq including, but not limited to:

1. Section 4(1) of ROSCA, 15 U.S.C. § 8403(1) charging, attempting to charge, or continuing to charge consumers through a negative option feature without having clearly and conspicuously disclosed all material terms of the transaction before obtaining consumers' billing information and

2. Section 4(2) of ROSCA, 15 U.S.C. § 8403(2) charging, attempting to charge, or continuing to charge consumers through a negative option feature without having obtained their express informed consent and

D. Operating any website offering free credit reports without displaying across the top of each page that mentions free credit reports, and across the top of each page of the ordering process, the prominent disclosure required by the Free Reports Rule, 12 C.F.R. § 1022.138, to inform consumers of their right to obtain a free credit report from AnnualCreditReport.com (877) 3228228.

company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the territorial United States;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing the FTC prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

C. Cashing any checks or depositing or processing any payments from customers of Defendants;

D. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Defendant; or

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Defendant.

Notwithstanding the asset freeze provisions of Section A through E above, and subject to prior written agreement with the Commission, Individual Defendants may, upon compliance with Section IV (Financial Statements) *infra*, pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses.

The funds, property, and assets affected by this Section shall include both existing and assets acquired after the effective date of this Order.

III.

DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any CBC Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any CBC Defendant, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

C.

directly or through any trust, corporation, subsidiary, division, or other device, are hereby restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the incomes, disbursements, transactions, dispositions, and uses of the CBC Defense assets;

B.

VI.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that the CBC Defendant and their officers, agents, servants, employees, attorneys, and all other persons or entities in ~~and~~ ~~or~~ participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, ~~mail~~ address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint; and

B. Benefiting from or using the name, address, birth date, telephone number, ~~mail~~ address, Social Security number, ~~credit~~ card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint;

Provided, however, that the CBC Defendant may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

VII.

PERMANENT RECEIVER

A. APPOINTMENT OF PERMANENT RECEIVER

IT IS FURTHER ORDERED that Robb Evans & Associates ~~is~~ appointed Permanent Equity Receiver for Receivership Defendant and any of its affiliates, subsidiaries, divisions, or sales or customer service operations, wherever located, with the full power of an equity receiver. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court. The Receiver shall comply with all Local Rules of this Court governing receivers

B. RECEIVERSHIP DUTIES

IT IS FURTHER ORDERED that the Receiver is directed and authorized to accomplish the following:

1. Assume full control of the Receivership Defendant by removing, as the Receiver deems necessary or advisable, any director, officer, ~~employee~~ independent contractor, or agent of the Receivership Defendant, including any Individual Defendant, from control of, management of, or participation in, the affairs of the Receivership Defendant;
2. Take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody, or under the control of, the Receivership Defendant, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage ~~assets~~ and documents of the Receivership Defendant and other persons or entities whose interests are now held by or under the direction, possession, custody, or control of the Receivership Defendant. Provided, however, that the Receiver shall not collect ~~an~~ amount from a consumer or allow the Receivership Defendant to

continue to debit or otherwise charge a consumer's account, if the Receiver believes the consumer was a victim of the unfair or deceptive acts or practices alleged in the Complaint in this matter;

3. Use any means necessary to take possession of and to secure all areas of the business premises of the Receivership Defendant. Such steps may include, but are not limited to, the following as the Receiver deems necessary or advisable: (a) serving this Order; (b) completing a written inventory of all receivership assets; (c) obtaining pertinent information from all employees and other agents of the Receivership Defendant, including, but not limited to, the name, home address, Social Security number, job description, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (d) videotaping all portions of the locations; (e) securing the locations by changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at the locations; (f) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises documents or assets of the Receivership Defendant; and/or (g) employ the assistance of law enforcement officers as the Receiver deems necessary to ~~implement~~ provisions of this Order;

4. Conserve, hold, and manage all receivership assets, and perform all acts necessary or advisable to preserve the value of those assets, in order to prevent any irreparable loss, damage, or injury to consumers or to ~~credit~~ the Receivership Defendant, including, but not limited to, obtaining an accounting of the assets and preventing transfer, withdrawal, or

misapplication of assets, and including the authority to liquidate or close out any open securities or commodity futures positions of the Receivership Defendant;

5. Enter into contracts and purchase insurance as advisable or necessary;

6. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors who have ~~acted~~ business with the Receivership Defendant;

7. Manage and administer the business of the Receivership Defendant until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents

8. With prior notice to all parties and upon approval by the Court, ~~close~~, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

9. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying ~~ing~~ the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendant prior to the date of entry of this Order,

except payments that the Receiver deems necessary or advisable to secure assets of the Receivership Defendant, such as rental payments;

10. Determine and implement the manner in which the Receivership

in such a designated account and shall make all payments and disbursements from the receivership estate from such an account;

16. Maintain accurate records of all ~~repts~~ receipts and expenditures that he or she makes as Receiver;

17. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency, including the FTC; and

18. File reports with the Court on a timely and reasonable basis.

C.

actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby restrained and enjoined from directly or indirectly:

- a. Transacting any of the business of the Receivership Defendant;
- b. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any documents of the Receivership Defendant, including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations, electronically records, or any other records of any kind or nature;
- c. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendant, or the Receiver;
- d. Excusing debts owed to the Receivership Defendant;
- e. Failing to notify the Receiver of any asset, including accounts, of the Receivership Defendant held in any name other than the name of the Receivership Defendant, or by any person or entity other than the Receivership Defendant, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody, or control of such assets;
- f. Doing any act or refraining from any act whatsoever to interfere with the Receiver's taking custody, control, possession, or managing of the assets or documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the

Receivership Defendant; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any Order of this Court; or

g. Filing, or causing to be filed, any petition on behalf of the Receivership Defendant for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq, without prior permission from this Court

D. DELIVERY OF RECEIVERSHIP PROPERTY

IT IS FURTHER ORDERED that:

1. Immediately upon service of this Order upon them, or within such period as may be permitted by the Receiver, the CBC Defendants or any other person or entity shall transfer or deliver possession, custody, and control of the following to the Receiver:

a. All assets of the Receivership Defendant, including assets subject to repatriation pursuant to Section 108, infra;

b. All documents of the Receivership Defendant, including, but not limited to, books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monludiudion,22 Tc -m [(,m)-2 (e)4 2(nc)4 (apdcddd)2-5

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- a. The commencement or continuation of a criminal action or proceeding;
- b. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or
- c. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

3. Except as otherwise provided in this Order, all persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a formal written request to the Receiver, and, if such request has not been responded to within thirty (30) days of receipt by the Receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

G. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by the Receiver in possession or control of, or which may be received by the Receivership Defendant. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court

H. RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver unless previously filed pursuant to the TRO, shall file with the Clerk of this Court a bond in the sum of \$10,000.00 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

VIII.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that the CBC Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, and the Receiver, shall allow the FTC's representatives, agent ER OTf 0 Tc 0 Tw (f)5 vier T -0.00 OER OTf 0 Tc 0

X.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that the CBC Defendants are hereby 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 IX of this Order, including, but not limited to:

A. Sending any statement, letter, facsimile, 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 assets have been fully repatriated pursuant to the preceding Section of this Order; and

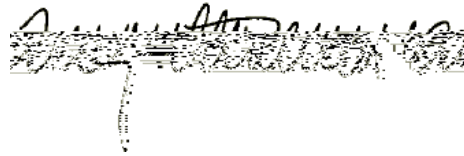
B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time as assets have been fully repatriated pursuant to the preceding Section of this Order.

XI.

DISTRIBUTION OF ORDER BY THE CBC DEFENDANTS

IT IS FURTHER ORDERED that the CBC Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, partners, divisions, sales entities, successors, assigns, members, officers, directors, employees, independent contractors, agents, servants, attorneys, spouses, representatives, and any other persons in active concert or participation with them. Within five (5) calendar days following service of this Order, the CBC Defendants shall file with this Court and serve on the FTC an affidavit identifying the name,

the offices of the FC at 55 West Monroe Street, Suite 1825, Chicago, Illinois 60603, to the attention of Guy G. Ward and Samuel A.A. Levine or overnight shipment through a third party commercial carrier for delivery at the address listed above

A handwritten signature in black ink, appearing to read "Samuel A.A. Levine", is positioned above a thick, dark horizontal line. A single vertical tick mark extends downwards from the center of this line.