

RECEIVED

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DEC 21 2015

**JUDGE GETTLEMAN
U. S. DISTRICT COURT**

_____)	
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 05C 6911
)	
v.)	Judge David H. Coar
)	
BRIAN McMULLEN, also doing business)	Magistrate Judge Nan R. Nolan
as BM ENTERTAINMENT and B PIMP,)	
)	
Defendant.)	
_____)	

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

Plaintiff Federal Trade Commission (“Commission” or “FTC”), having filed its Complaint for Injunctive and Other Equitable Relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM” or “the CAN-SPAM Act”), 15 U.S.C. § 7706(a), and having moved for a Temporary Restraining Order, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the Court having considered the Complaint, declarations, exhibits, and memorandum of law filed in support thereof, and now being advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it has jurisdiction over the parties;
2. Venue properly lies with this Court;

3. There is good cause to believe that Defendant has engaged in, and is likely to continue to engage in, acts and practices that violate Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 5(a) of CAN-SPAM, 15 U.S.C. § 7704(a), and that the Commission is therefore likely to prevail on the merits of this action;

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary redress or disgorgement will occur from the sale, transfer, or other disposition or concealment by Defendant of his assets or records unless Defendant is immediately restrained and enjoined by Order of this Court. The evidence set forth in Plaintiff's Memorandum in Support of its Motion for a Temporary Restraining Order, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue, and in the accompanying declarations and exhibits, demonstrates that Defendant has engaged in a concerted course of illegal activity by sending commercial email messages in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 5(a) of CAN-SPAM, 15 U.S.C. § 7704(a). Defendant's practices have regularly involved concealment of his identity to avoid detection. Defendant has retained ill-gotten gains derived from these and other practices. There is good cause to believe that unless he is restrained from doing so by Order of this Court, Defendant will continue with these illegal actions, and he will attempt to conceal the scope of his illegal actions through the destruction of evidence and secreting of assets;

5. Weighing the equities and considering Plaintiff's likelihood of success, this Order is in the public interest; and

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

DEFINITIONS

1. “**Affirmative Consent**,” with respect to a commercial email message, means that “the recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient’s own initiative;” and “if the message is from a party other than the party to which the recipient communicated such consent, the recipient was given clear and conspicuous notice at the time the consent was communicated that the recipient’s electronic mail address could be transferred to such other party for the purposes of initiating commercial electronic mail messages.” 15 U.S.C. § 7702(1).

2. “**Asset**” or “**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, premises, contracts, mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever located.

3. “**Clear and conspicuous**” or “**clearly and conspicuously**,” with regard to the display of a notice, means that the information shall be presented in writing, in a type size, color, and location sufficient for an ordinary consumer to read and comprehend it, and shall be disclosed in a manner that would be easily recognizable and understandable in language and syntax to an ordinary consumer. If the information is contained in a multi-page print document, the disclosure shall appear on the first page.

4. “**Commercial electronic mail message**” (or “**commercial email**”) “means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).” 15 U.S.C. § 7702(2) (A).

5. “**Defendant**” means Brian McMullen, also doing business as BM Entertainment and B Pimp, by whatever name he might be known.

6. “**Document**” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

7. “**Electronic mail address**” “means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the “local part”) and a reference to an Internet domain (commonly referred to as the “domain part”), whether or not displayed, to which an electronic mail message can be sent or delivered.” 15 U.S.C. § 7702(5).

8. “**Header information**” “means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.” 15 U.S.C. § 7702(8).

9. **“Initiate,”** “when used with respect to a commercial email message, means to originate or transmit such message or to procure the origination or transmission of such message.” 15 U.S.C. § 7702(9).

10. **“Procure,”** when used with respect to the initiation of a commercial email message, means “intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one’s behalf.” 15 U.S.C. § 7702(12).

11. **“Protected computer”** means a computer which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States. 15 U.S.C. § 7702(13); 18 U.S.C. § 1030(e)(2)(B).

12. **“Sender”** means a person who initiates a commercial electronic mail message and whose product, service, or Internet Web site is advertised or promoted by the message. 15 U.S.C. § 7702(16).

I.

PROHIBITIONS AGAINST MISREPRESENTATIONS

IT IS THEREFORE ORDERED that Defendant, and his officers, agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from initiating the transmission of commercial email that:

A. Contains, or is accompanied by, materially false or materially misleading header information, including, but not limited to:

1. an originating electronic mail address, domain name, or Internet Protocol address when the access to such originating electronic mail address, domain name, or Internet Protocol address was obtained by means of false or fraudulent pretenses or representations;

2. a “from” line (the line identifying or purporting to identify the person initiating the messages) that does not accurately identify any person who initiated the message;

3. header information that fails to identify accurately the computer used to initiate the message because the person initiating the message used another computer to relay or retransmit the message for purposes of disguising its origin; and/or

B. Contains a subject heading likely to mislead recipients, acting reasonably under the circumstances, about material facts regarding the contents or subject matter of the message.

II.

PROHIBITIONS AGAINST OPT-OUT AND POSTAL ADDRESS VIOLATIONS

IT IS FURTHER ORDERED that Defendant, and his officers, agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from initiating the transmission of commercial email that:

A. Does not include a clear and conspicuous notice of the recipient’s opportunity to decline to receive further commercial electronic mail messages from the sender at the recipient’s electronic mail address and describes the means by which the recipient can decline to receive future commercial email messages from the sender;

B. Does not include a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that a recipient can use to submit a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from the sender at the electronic mail address where the message was received, and that remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message; and/or

C. Does not include the sender's valid physical postal address.

III.

PROHIBITIONS AGAINST FAILING TO IDENTIFY AN EMAIL MESSAGE AS AN ADVERTISEMENT OR SOLICITATION

IT IS FURTHER ORDERED that Defendant, and his officers, agents, servants, employees and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from initiating the transmission of commercial email that fails to provide clear and conspicuous identification that the message is an advertisement or solicitation.

PROVIDED, HOWEVER, that the requirements of this Section do not apply to commercial email messages transmitted only to recipients for whom Defendant has Affirmative Consent from such recipients.

IV.

INJUNCTION AGAINST NEW ACCOUNT REGISTRATIONS WITHOUT REPORTING

IT IS FURTHER ORDERED that in connection with the promotion, advertising, marketing, sale, or offering for sale of any product or service, Defendant and his officers, agents,

servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from registering or creating any new domain names, Web sites, Web pages, or email accounts, Internet service accounts, or online payment service accounts, without notifying counsel for the Commission within 72 hours of such registrations. The notice shall include:

A. The true identity of the registrant, account holder, or user, including the complete and accurate physical mailing address, email address, and telephone number;

B. The means and source of payment for the registration, including the credit card number or bank account number used;

C. The name and address of the person or entity to whom such registration was submitted;

D. The date and time the registration was created; and

E. The purpose of the domain names, Web sites, Web pages, or email accounts, Internet service accounts, or online payment service accounts registered.

V.

**INJUNCTION AGAINST USING ANY PERSONS OR ENTITIES
TO SEND COMMERCIAL EMAIL WITHOUT REPORTING**

IT IS FURTHER ORDERED that in connection with the promotion, advertising, marketing, sale, or offering for sale of any product or service, Defendant is temporarily restrained and enjoined from using any affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities to send commercial email on his behalf without notifying

counsel for the Commission prior to the initiation of any commercial email message by such persons or entities. The notice shall include:

A. The identity of the affiliate, sub-affiliate, agent, mailer, vendor, employee, contractor, or other person or entity including the name of an individual, the complete and accurate physical mailing address, a working email address, a working telephone number, and any identification codes associated with or used by such person or entity;

B. The amount of payment and information necessary to process such payment for the affiliate, sub-affiliate, agent, mailer, vendor, employee, contractor, or other person or entity, including the account name and number used;

C. A copy of the body and subject line of each unique commercial email being sent by the affiliate, sub-affiliate, agent, mailer, vendor, employee, contractor, or other person or entity;

D. A list of each of the email addresses from which the affiliate, sub-affiliate, agent, mailer, vendor, employee, contractor, or other person or entity will send the commercial email message;

E. A list of the Web site addresses and/or domain names promoted in the commercial email message;

F. A description of the procedures Defendant has to ensure that:

1. Such person or entity does not send commercial email messages to recipients who have previously requested not to receive commercial email messages from Defendant; and

2. Defendant will receive all requests received by such persons or entities from email recipients who request not to receive commercial email messages from Defendant; and

G. A certification that such person or entity has agreed, in writing, to comply with this Order and the provisions of the CAN-SPAM Act.

VI.

ASSET PRESERVATION

IT IS FURTHER ORDERED that:

A. Defendant, whether acting directly or through a trust, corporation, subsidiary, division, or other device, or any of them, is hereby temporarily restrained and enjoined from selling, transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, perfecting a security interest in, or otherwise disposing of any assets or any interest therein, wherever located, including any assets outside the territorial United States, other than those that are actual, ordinary, and necessary living expenses that Defendant reasonably incurs.

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

C. Notwithstanding Section VI.A above, Defendant may withdraw, transfer, encumber, or otherwise dissipate assets in excess of three thousand dollars (\$3,000) per calendar month only with prior written agreement by counsel for the Commission, or prior approval by the Court.

D. To the extent that Defendant withdraws, transfers, encumbers, or otherwise dissipates assets pursuant to Section VI.A of this Order, he shall provide an accounting of his expenses to counsel for the FTC for each calendar month.

VII.

FINANCIAL REPORTS AND ACCOUNTING

IT IS FURTHER ORDERED that Defendant, within seven (7) days after entry of this Order, shall prepare and deliver to counsel for the Commission:

- A. A completed financial statement on the form attached to this Order as **Attachment A**. The financial statement shall be accurate as of the date of its completion; and
- B. A complete accounting of all gross and net profits obtained from, derived from, or related in any way to products, services, Web page memberships, or any other commercial venture promoted in any way through commercial electronic mail messages from January 1, 2004 through the submission of the accounting.

VIII.

IDENTIFICATION OF MARKETERS

IT IS FURTHER ORDERED that Defendants, within seven (7) days from the entry of this Order, shall prepare and deliver to counsel for the Commission a completed statement identifying all affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities that have sent commercial email on Defendants' behalf since January 1, 2004, on the form attached as **Attachment B**. The statement shall be accurate as of the date of its completion.

IX.

**PRESERVATION AND MAINTENANCE OF RECORDS
AND NOTICE OF NEW VENTURES**

IT IS FURTHER ORDERED that Defendant and his officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from:

A. Destroying, erasing, mutilating, falsifying, concealing, writing over, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents or records, including but not limited to, any and all computerized files, storage media (including but not limited to floppy disks, hard drives, CD-Roms, Zip disks, punch cards, magnetic tape, backup tapes, and computer chips) on which information has been saved (including any and all equipment needed to read any such material), contracts, accounting data, registrations, correspondence, advertisements (including, but not limited to, advertisements placed on the World Wide Web or the Internet or sent via email), FTP logs, Service Access Logs, USENET Newsgroups postings, World Wide Web pages, email messages, 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, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices, or business or personal finances, of Defendant;

B. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect incomes, disbursements, transactions, and use of money; and

C. Creating, operating, or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing the Commission with a written statement disclosing:

1. the name of the business entity;
2. the address, telephone number, email address, and Web site address of the business entity;
3. the names of the business entity's officers, directors, principals, managers, and employees;
4. the names and addresses of any persons or entities providing online marketing, advertising, or mailing services for the business entity; and
5. a detailed description of the business entity's intended activities.

IT IS FURTHER ORDERED that in order to preserve all active and inactive computer data, Defendant shall immediately upon service of this Order power down and only then unplug any and all computers in their control that are being used or have been used in any manner related to the activities as alleged in the Complaint, or business or personal finances of Defendant, and shall cease using such computers until after Defendant has provided Plaintiff's access as ordered in Section X.

X.

PLAINTIFF'S ACCESS TO DEFENDANT'S RECORDS

IT IS FURTHER ORDERED that Defendant shall, within forty-eight (48) hours of service of this Order, produce to Plaintiff for inspection, inventory and/or copying, at the office of the Federal Trade Commission, Midwest Region, 55 East Monroe Street, Suite 1860, Chicago, Illinois 60603, or at another location designated by Plaintiff, all documents relating or referring,

directly or indirectly, to Defendant's activities as alleged in the Complaint and/or Defendant's assets or assets held on Defendant's behalf, as well as any computers, electronic files, storage media (including, but not limited to, floppy disks, hard drives, CD-Roms, Zip disks, punch cards, magnetic tape, backup tapes and computer chips) on which information has been saved (including any and all equipment needed to read any such material), contracts, accounting data, correspondence (including, but not limited to, electronic correspondence), solicitations (including, but not limited to, solicitations on the Internet), USENET Newsgroup postings, web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, receipts, order confirmations, credit card statements, appointment books, copies of federal, state or local business or personal income or property tax returns, W-2 forms, 1099 forms, and other documents, records, or equipment related to Defendant's activities as alleged in the Complaint or assets. Such information should include, but not be limited to:

A. Information relating to or concerning each person or entity for whom Defendant provides or has provided consumer lead information, including but not limited to names, addresses, email addresses, and telephone number, since January 1, 2004;

B. Information relating to or concerning affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities that send or have sent commercial email on Defendant's behalf, or promote or have promoted any product or service for Defendant since January 1, 2004 (such information should include name(s), physical address(es), email address(es), telephone number(s), website address(es), and bank and payment information for each person or entity);

C. Copies of any web pages or web sites that are or were operated by, registered to, or created by Defendant, Defendant's affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities that send or have sent commercial email on Defendant's behalf, or promote or have promoted any product or service for Defendant since January 1, 2004;

D. Any email message (including header information), and the content or header of any email message, relating to the promotion of any product, service or web site, sent or proposed to be sent since January 1, 2004, by Defendant, Defendant's affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities that send or have sent commercial email on Defendant's behalf; and

E. Information relating to or concerning any email address or Internet-based mechanism that an email recipient can use to request not to receive future email messages (hereinafter referred to as an "opt-out request") contained in or referred to in any email message sent by Defendant, Defendant's affiliates, sub-affiliates, agents, mailers, vendors, employees, contractors, or other persons or entities that send or have sent commercial email on Defendant's behalf, or promote or have promoted any product or service for Defendant, since January 1, 2004.

PROVIDED, HOWEVER, that Plaintiff shall return materials produced by Defendant within five (5) business days of completing said inventory and copying.

XI.

DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that Defendant shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, client company, agent, attorney, spouse, and representative of

Defendant, and shall, within ten (10) days from the date of entry of this Order, provide the Commission with a sworn statement that Defendant has complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order.

XII.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission or electronic mail, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

XIII.

CONSUMER CREDIT REPORTS

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 Defendant to the Commission.

XIV.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that the parties are granted leave at any time after service of this Order and pursuant to Federal Rules of Civil Procedure 30(a), 34 and 45 to: (1) take the deposition of any person or entity for the purpose of discovering the nature, status, extent, location or other relevant information relating to Defendant's assets and the nature and location of documents reflecting the business transactions of Defendant; and (2) demand the production of

documents from any person or entity relating to the nature, status, extent, and location or other relevant information relating to Defendant's assets and the location of documents reflecting the business transactions of Defendant. Seventy-two (72) hours notice shall be deemed sufficient for any such deposition and production of documents from Defendant and any other person or entity, including but not limited to financial institutions, accountants, stock brokers, and financial planners.

The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward any limit on the number of depositions under the Federal Rules of Civil Procedure, including those set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A) or the Local Rules. Additionally, the production of documents submitted pursuant to this provision shall not in any way waive the Commission's rights to seek the production of additional documents.

XV.

DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on DECEMBER 30, 2005 at ^{10:00 AM}~~11:59 p.m.~~, unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

XVI.

ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65, that Defendant shall appear before this Court on the 30 day of DECEMBER, 2005, at

9:00 o'clock A.m., at the Dirksen Federal Courthouse, 219 S. Dearborn St., Chicago, Illinois, Courtroom 1703, to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the complaint against Defendant, enjoining him from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and Section 5 of the CAN-SPAM Act, 15 U.S.C. § 7704, continuing the freeze of his assets, and imposing such additional relief as may be appropriate.

Provided that, Defendant must file with the Clerk's Office and deliver to the counsel for the Commission any brief responding to the order to show cause why a preliminary injunction should not be entered no later than forty-eight (48) hours before the time scheduled for the hearing. An evidentiary hearing on the Commission's request for a preliminary injunction is not necessary unless Defendant demonstrate that he has, and intends to introduce, evidence that raises a genuine and material factual issue. *See, e.g., In re Aimster*, 334 F.3d 643, 653-54 (7th Cir. 2003); *Promatek Indus., Ltd. v. Equitrac Corp.*, 300 F.3d 808, 814 (7th Cir. 2002).

Provided further that, if any party to this action intends to present the testimony of any witness at the hearing on a Preliminary Injunction in this matter, that party shall, at least 24 hours prior to the scheduled date and time of hearing, file with this Court and serve on all other parties a statement disclosing the name, address, and telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit revealing the substance of such witness' expected testimony.

XVII.

SERVICE UPON THE COMMISSION

IT IS FURTHER ORDERED, with regard to any correspondence or pleadings related to this Order that service on Plaintiff shall be performed by overnight mail delivery or facsimile to the attention of:

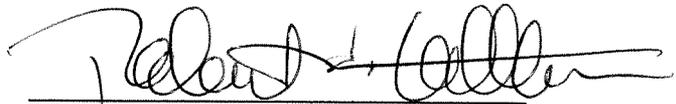
William J. Hodor
Federal Trade Commission
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
[facsimile transmission to (312) 960-5600]

XVIII.

RETENTION OF JURISDICTION

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

SO ORDERED, this 21st day of December, 2005, at 10:00 a.m.



United States District Judge

Attachment A

ATTACHMENT A TO TEMPORARY RESTRAINING ORDER

FEDERAL TRADE COMMISSION FINANCIAL STATEMENT OF INDIVIDUAL DEFENDANT

Instructions:

1. Complete all items. Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why. "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly. Attach continuation pages as needed. Initial each page in the space provided in the lower right corner. Sign and date the completed financial statement on the last page.

BACKGROUND INFORMATION

Item 1. Information About You

Your Full Name _____ Social Security # _____
Current Address _____ From (Date) _____
Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used _____ Marital status _____

Item 2. Information About Spouse, Dependents

►Name _____ Date of Birth _____
Relationship _____ Social Security No. _____

►Name _____ Date of Birth _____
Relationship _____ Social Security No. _____

Item 3. Employment Information

Provide the following information for this year-to-date and for each of the previous three full years, for each company of which you were a director, officer, employee, agent, or consultant at any time during that period.

►Company Name & Address _____
Position Held and Dates Employed: _____

►Company Name & Address _____
Position Held and Dates Employed: _____

►Company Name & Address _____
Position Held and Dates Employed: _____

FINANCIAL INFORMATION: ASSETS AND LIABILITIES

REMINDER: "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly.

Item 4. Safe Deposit Boxes

List all safe deposit boxes, located within the United States or elsewhere, held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents. *On a separate page, describe the contents of each box.*

<u>Owner's Name</u>	<u>Name & Address of Depository Institution</u>	<u>Box No.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Item 5. Cash, Bank Accounts, Money Market Accounts, Certificates of Deposit

List cash and all bank accounts, money market accounts, certificates of deposit, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ _____ Cash Held For Your Benefit \$ _____

<u>Name on Account</u>	<u>Name & Address of Financial Institution</u>	<u>Account No.</u>	<u>Current Balance</u>

Item 6. Publicly Traded and Government Securities

List all securities, including but not limited to, stocks, stock options, registered and bearer bonds, state and municipal bonds, and mutual funds, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. In the alternative, attach the most recent brokerage statement for each account.

<u>Name of Security</u>	<u># of units owned</u>	<u>Owner of security</u>	<u>Location of Security</u>	<u>Current Value</u>

Item 7. Other Business Interests

List all other business interests, including but not limited to, non-public corporations, general or limited partnership interests, sole proprietorships, and oil and mineral leases, in which you, your spouse, or your dependents, are an officer, director, or have an ownership interest.

► Business Format _____ Business' Name & Address _____
Ownership % _____ Officer/Director _____
Owner (e.g., self, spouse) _____ Current Fair Market Value \$ _____

► Business Format _____ Business' Name & Address _____
Ownership % _____ Officer/Director _____
Owner (e.g., self, spouse) _____ Current Fair Market Value \$ _____

Item 8. Amounts Owed to You, Your Spouse, or Your Dependents

List all amounts owed to you, your spouse, or your dependents.

Debtor's Name, Address, & Telephone No. _____
Original Amount Owed \$ _____ Current Amount Owed \$ _____ Monthly Payment \$ _____

Item 9. Personal Property

List all personal property, by category, whether held for personal use or for investment, including but not limited to, furniture and household goods of value, computer equipment, electronics, coins, stamps, artwork, gemstones, jewelry, bullion, other collectibles, copyrights, patents, and other intellectual property, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

<u>Property Category</u> (e.g., artwork, jewelry)	<u>Name of Owner</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

Item 10. Cars, Trucks, Motorcycles, Boats, Airplanes, and Other Vehicles

List all cars, trucks, motorcycles, boats, airplanes, and other vehicles owned or operated by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

▶ Vehicle Type _____ Make _____ Model _____ Year _____
Registered Owner's Name _____ Registration State & No. _____
Current Value \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

▶ Vehicle Type _____ Make _____ Model _____ Year _____
Registered Owner's Name _____ Registration State & No. _____
Current Value \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

▶ Vehicle Type _____ Make _____ Model _____ Year _____
Registered Owner's Name _____ Registration State & No. _____
Current Value \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

Item 11. Real Property

List all real estate held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

▶ Type of Property _____ Property's Location _____
Name(s) on Title and Ownership Percentages _____
Current Value \$ _____ Balance On First Mortgage \$ _____ Monthly Payment \$ _____ \$
Other Loan(s) (describe) _____ Current Balance \$ _____
Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

▶ Type of Property _____ Property's Location _____
Name(s) on Title and Ownership Percentages _____
Current Value \$ _____ Balance On First Mortgage \$ _____ Monthly Payment \$ _____ \$
Other Loan(s) (describe) _____ Current Balance \$ _____
Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

Item 12. Credit Cards

List each credit card held by you, your spouse, or your dependents. Also list any other credit cards that you, your spouse, or your dependents use.

<u>Name of Credit Card (e.g., Visa, MasterCard, Department Store)</u>	<u>Account No.</u>	<u>Name(s) on Account</u>	<u>Current Balance</u>	<u>Minimum Monthly Payment</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

Item 13. Loans and Liabilities

List all loans or liabilities in your, your spouse's, or your dependents' names.

►Name & Address of Lender/Creditor _____
 Nature of Liability _____ Name(s) on Liability _____
 Date of Liability _____ Amount Borrowed \$ _____ Current Balance \$ _____
 Payment Amount \$ _____ Frequency of Payment _____

►Name & Address of Lender/Creditor _____
 Nature of Liability _____ Name(s) on Liability _____
 Date of Liability _____ Amount Borrowed \$ _____ Current Balance \$ _____
 Payment Amount \$ _____ Frequency of Payment _____

OTHER FINANCIAL INFORMATION

Item 14. Tax Returns

List all federal tax returns that were filed during the last three years by or on behalf of you. Provide a copy of each signed tax return that was filed during the last three years.

<u>Tax Year</u>	<u>Refund Expected</u>
_____	\$ _____
_____	_____
_____	_____

Item 15. Transfers of Assets

List each person to whom you have transferred, in the aggregate, more than \$5000 in funds or other assets during the previous three years by loan, gift, sale, or other transfer. For each such person, state the total amount transferred during that period.

<u>Transferee's Name, Address, & Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____

SUMMARY FINANCIAL SCHEDULES

Item 16. _____ Combined Balance Sheet for You, Your Spouse, and Your Dependents. "You" includes yourself, your spouse, and your dependents.

<u>ASSETS</u>		<u>LIABILITIES</u>	
Cash on Hand	\$ _____	Credit Cards Balances	\$ _____
Cash in Financial Institutions	\$ _____	Motor Vehicles, Boats, Airplanes - Liens	\$ _____
Securities	\$ _____	Real Property - Mortgages	\$ _____
Other Business Interests	\$ _____	Loans Against Securities	\$ _____
Amounts Owed to You	\$ _____	Taxes Owed by You	\$ _____
Personal Property You Own	\$ _____	Other Loans and Liabilities (Itemize)	\$ _____
Value of Vehicles, Boats, Airplanes You Own	\$ _____		\$ _____
Value of Real Property You Own	\$ _____		\$ _____
Other Assets You Own (Itemize)	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
Total Assets	\$ _____	Total Liabilities	\$ _____

Item 17. Combined Average MONTHLY Income and Expenses for You, Your Spouse, and Your Dependents for the Last 6 Months

Provide the average monthly income and expenses for you, your spouse, and your dependents for the last 6 months. Do not include credit card payments separately; rather, include credit card expenditures in the appropriate categories.

<u>INCOME</u>		<u>EXPENSES</u>	
Salary - After Taxes	\$ _____	Mortgage Payments for Residence(s)	\$ _____
Fees, Commissions, and Royalties	\$ _____	Property Taxes for Residence(s)	\$ _____
Interest	\$ _____	Rental Property Expenses, Including Mortgage Payments, Taxes, and Insurance	\$ _____
Dividends and Capital Gains	\$ _____	Car or Other Vehicle Lease or Loan Payments	\$ _____
Gross Rental Income	\$ _____	Food Expenses	\$ _____
Profits from Sole Proprietorships	\$ _____	Clothing Expenses	\$ _____
Distributions from Partnerships, S-Corporations, and LLCs	\$ _____	Utilities	\$ _____
Distributions from Trusts and Estates	\$ _____	Medical Expenses, Including Insurance	\$ _____
Social Security Payments	\$ _____	Other Insurance Premiums	\$ _____
Alimony/Child Support Received	\$ _____	Other Transportation Expenses	\$ _____
Other Income (Itemize)	\$ _____	Other Household Expenses	\$ _____
		<u>Other Expenses (Itemize)</u>	
		_____	\$ _____
	\$ _____	_____	\$ _____
	\$ _____	_____	\$ _____
	\$ _____	_____	\$ _____
Total Income	\$ _____	Total Expenses	\$ _____

I am submitting this financial statement with the understanding that it may affect action by the Federal Trade Commission or a federal court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I know of the penalties for false statements under 18 U.S.C. § 1001, 18 U.S.C. § 1621, and 18 U.S.C. § 1623 (five years imprisonment and/or fines). I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on:

(Date)

Signature

Attachment B

ATTACHMENT B TO TEMPORARY RESTRAINING ORDER

Identification and Compensation of Marketers by Defendant _____

	<i><u>Person or Entity #1</u></i>	<i><u>Person or Entity #2</u></i>
Full name, physical address, and telephone number or other contact number		
Email address		
Identification number or code		
Total Value of Compensation Paid Since January 1, 2004		
Means of Payment, including account number and name in which the funds were deposited, and the financial institution or entity receiving the funds		
Dates of Affiliation		
If Terminated, Reason for Termination		

**** Continue on additional pages as necessary for all Marketers.**