

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

B.C. LTD. 0763496, d.b.a. CASH CORNER
SERVICES, INC.; B.C. LTD. 0685573, d.b.a.
FAMILY CHOICE STORE, INC.; ODOWA
ROLAND OKUOMOSE, individually and as a
director of Cash Corner Services, Inc., and
Family Choice Store, Inc.; and EVELYN
OKUOMOSE, individually and as a director of
Family Choice Store, Inc.,

Defendants.

Case No. C07-1755 RSM

**PRELIMINARY INJUNCTION AND
ORDER FOR OTHER EQUITABLE
RELIEF**

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6108-08, filed its Complaint for Injunctive and Other Equitable Relief and moved for an *ex parte* Temporary Restraining Order With Asset Freeze and Order to Show Cause Why Preliminary Injunction Should Not Issue pursuant to Rule 65 of the Fed. R. Civ. P. 65(b). On October 31, 2007, this Court entered the requested temporary restraining order ("TRO"). All the Defendants were served with the Summons, Complaint, TRO, and other related papers filed in this action on November 6, 2007. This Court having considered the Complaint, pleadings,

1 declarations, exhibits, and memorandum of law filed in support thereof, and now being advised in
2 the premises, it is the finding of this Court that:

3 **FINDINGS**

4 1. This is an action by the Commission instituted under Section 13(b) and 19 of the
5 FTC Act, 15 U.S.C. §§ 53(b) and 57b. Pursuant to these sections, the Commission has the
6 authority to seek the relief contained herein.

7 2. The Commission's Complaint states claims upon which relief may be granted
8 against Defendants under Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act, 15
9 U.S.C. §§ 45(a), 53(b), and 57b, and the Telemarketing Act, 15 U.S.C. §§ 6108-08.

10 3. This Court has jurisdiction over the subject matter of this case and all the parties
11 hereto.

12 4. Venue in the Western District of Washington and service of process are proper.

13 5. The acts and practices of the Defendants are in or affecting commerce, as defined
14 in Section 4 of the FTC Act, 15 U.S.C. § 44.

15 6. This Court has the authority to grant a preliminary injunction and other
16 appropriate relief pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and Rule 65 of
17 the Federal Rules of Civil Procedure.

18 7. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes the issuance of such
19 preliminary relief upon a proper showing that, weighing the equities and considering the
20 Commission's likelihood of ultimate success, such action would be in the public interest.

21 8. Section 5(a) of the FTC Act prohibits deceptive acts and practices in or affecting
22 commerce. To be deceptive, an act or practice must be one that is likely to mislead consumers
23 acting reasonably under the circumstances, and is material. *FTC v. Pantron I Corp.*, 33 F.3d
24 1088, 1095 (9th Cir. 1994), *citing Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 164-65 (1984).

25 9. Section 310.3(a)(2)(v) of the Telemarketing Sales Rule ("TSR") prohibits sellers
26 and telemarketers from misrepresenting in the sale of goods and services any material aspect of a
27 prize promotion. 16 C.F.R. § 310.3(a)(2)(v). Defendants B.C. Ltd. 0763496, d.b.a. Cash
28 Corner Services, Inc., and Odowa Roland Okuomose are "sellers" and "telemarketers" engaged in

1 the “telemarketing” of “prize promotions” as those terms are defined in the TSR. 16 C.F.R.
2 § 310.2(z), (bb), (cc), and (y).

3 10. Section 310.3(b) of the TSR prohibits persons from providing substantial
4 assistance or support to any seller or telemarketer where the person knows or consciously avoids
5 knowing that the seller or telemarketer is engaged in any act or practice that violates Section
6 310.3(a) of the TSR. 16 C.F.R. 310.3(b). Defendants B.C. Ltd. 0685573, d.b.a. Family Choice
7 Store, Inc., and Evelyn Okuomose are “persons” as that term is defined in the TSR. 16 C.F.R.
8 § 310.2(v).

9 11. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and
10 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Telemarketing Sales
11 Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of
12 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

13 12. There is good cause to believe that the Defendants B.C. Ltd. 0763496, d.b.a. Cash
14 Corner Services, Inc. (“Cash Corner”); B.C. Ltd. 0685573, d.b.a. Family Choice Store, Inc.
15 (“Family Choice”); Odowa Roland Okuomose, and Evelyn Okuomose, have engaged in, and are
16 likely to engage in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
17 and Sections 310.3(a)(2)(v) and 310.3(b) of the TSR, 16 C.F.R. §§ 310.3(a)(2)(v) and 310.3(b),
18 and that the Commission is likely to prevail on the merits of this action.

19 13. The FTC has demonstrated a likelihood of success on the merits under Section 5
20 of the FTC Act and under the TSR. As demonstrated by the evidence, including sworn
21 declarations from consumers and law enforcement personnel, the Defendants Cash Corner and
22 Odowa Roland Okuomose or their telemarketers have claimed that consumers have won and will
23 receive a large cash award if they make a payment, such as a “tax” or “fee,” and that the check
24 they have received is a negotiable bank draft or check. These claims are false in violation of both
25 Section 5(a) of the FTC Act and the TSR.

26 14. As demonstrated by the evidence, including sworn declarations from law
27 enforcement personnel, Defendants Family Choice and Evelyn Okuomose have provided
28 substantial assistance or support to Defendants Cash Corner and Odowa Roland Okuomose,

1 while knowing or consciously avoiding knowing that Defendants Cash Corner and Odowa Roland
2 Okuomose are engaged in acts or practices that violate the TSR.

3 15. There is good cause to believe that immediate and irreparable injury to consumers
4 will result from Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C.
5 § 45(a), Sections 310.3(a)(2)(v) and 310.3(b) of the TSR, 16 C.F.R. §§ 310.3(a)(2)(v) and
6 310.3(b), absent the entry of this Preliminary Injunction (“Order”).

7 16. There is good cause to believe that immediate and irreparable injury to the Court’s
8 ability to grant effective final relief for consumers in the form of monetary restitution will result
9 from the sale, transfer, assignment, or other disposition or concealment by Defendants of their
10 assets or records absent entry of this Order.

11 17. Weighing the equities and considering Plaintiff’s likelihood of success, entry of
12 this Order is in the public interest.

13 **ORDER**

14 **I. PROHIBITED PRACTICES**

15 **IT IS THEREFORE ORDERED** that Defendants, and their officers, agents, servants,
16 employees, and attorneys, and all other persons or entities in active concert or participation with
17 them who receive actual notice of this Order by personal service or otherwise, whether acting
18 directly or through any successor, assign, corporation, subsidiary, division, or other device, or any
19 of them, are hereby preliminarily restrained and enjoined from:

20 A. Misrepresenting, expressly or by implication, orally or in writing, in connection
21 with telemarketing a lottery, prize promotion, or other game of chance, that consumers have won
22 and will receive a large cash award if they make a payment, such as a “tax” or “fee;”

23 B. Misrepresenting, expressly or by implication, orally or in writing, to any consumer
24 that Defendants have provided the consumer with a negotiable bank draft or check;

25 C. Violating, or assisting others in violating, any provision of the Telemarketing Sales
26 Rule (“TSR”), 16 C.F.R. Part 310, including, but not limited to:

27 1. Section 310.3(a)(2)(v), 16 C.F.R. § 310.3(a)(2)(v), by misrepresenting,
28 expressly or by implication, directly or through their agents, any material aspect of a prize

1 promotion, including, but not limited to, misrepresenting that consumers have won and
2 will receive a large cash award if they pay a “tax” or “fee;” and misrepresenting that the
3 check consumers receive is a negotiable bank draft or check; and

4 2. Section 310.3(b), 16 C.F.R. § 310.3(b), by providing substantial assistance
5 or support to any seller or telemarketer, while knowing or consciously avoiding knowing
6 that the seller or telemarketer is engaged in acts or practices that violate Section 310.3(a)
7 of the TSR, 16 C.F.R. § 310.3(b); and

8 D. Assisting others who violate any provision of Section I of this Order.

9 **II. ASSET FREEZE**

10 **IT IS FURTHER ORDERED** that, except as stipulated by the parties or as directed by
11 further order of the Court, Defendants, and their officers, agents, servants, employees, and
12 attorneys, and all other persons or entities in active concert or participation with them who
13 receive actual notice of this Order by personal service or otherwise, whether acting directly or
14 through any successor, assign, corporation, subsidiary, division, or other device, or any of them,
15 are hereby preliminarily restrained and enjoined from transferring, converting, encumbering,
16 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise
17 disposing of any funds, real or personal property, accounts, contracts, customer or mailing
18 (including email) lists, shares of stock, or other assets, or any interest therein, wherever located,
19 that are (a) owned or controlled by any Defendant, in whole or in part; or (b) in the actual or
20 constructive possession of any Defendant; or (c) owned, controlled by, or in the actual or
21 constructive possession of, any corporation, partnership, or other entity, directly or indirectly
22 owned, managed, controlled by, or under common control with, any Defendant, including, but not
23 limited to, any assets held by or for any Defendant at any money transfer services business, bank,
24 savings and loan institution, broker-dealer, commercial mail receiving agency, escrow agent, title
25 company, commodity trading company, precious metal dealer, or other financial institution or
26 depository of any kind. The assets affected by this Section shall include both existing assets and
27 assets acquired after issuance of this Order, and each Defendant shall hold and account for these
28 assets and all payments received by each Defendant, including, but not limited to, assets at any

1 branch of any bank, and MoneyGram, and borrowed funds or property and gifts.

2 **III. RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS AND**
3 **OTHER THIRD PARTIES**

4 **IT IS FURTHER ORDERED** that, any entity that has had custody or control of any of
5 the Defendant's accounts or other assets at any time since July 1, 2006, and that is provided with
6 a copy of this Order, or otherwise has actual or constructive knowledge of this Order shall:

7 A. Hold and retain control of all of the assets or other property the entity holds or
8 controls on behalf of, for the benefit or use of, or in any account in the name of, any Defendant, in
9 whole or in part; and prohibit the withdrawal, removal, assignment, transfer, pledge,
10 hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other
11 disposal of any such property, except as directed by further order of this Court, or by written
12 agreement of Plaintiff and the parties claiming an interest in such account or asset;

13 B. Deny all Defendants and their officers, agents, servants, employees, and attorneys,
14 and all other persons or entities directly or indirectly under their control, or in common control
15 with them, access to any safe deposit boxes, commercial mail boxes or storage facilities that are
16 either titled in the name, individually or jointly, of any Defendant, or any affiliate or subsidiary, or
17 otherwise subject to access by any Defendant;

18 C. Within five business days of notice of this Order, provide to counsel for Plaintiff a
19 sworn statement setting forth:

20 1. The identification number of each account or asset titled in the name,
21 individually or jointly, of any Defendant, or to which any Defendant is a signatory, or
22 which is held on behalf of, or for the benefit or use of, any Defendant;

23 2. The balance of each such account, or a description and appraisal of the
24 value of such asset, as of the close of business on the day on which notice of this Order is
25 received;

26 3. If the account or other asset has been closed or removed, or more than
27 \$1,000 withdrawn or transferred from it within the last ninety days, the date of the closure
28 or removal of funds, the total amount removed or transferred, the name and account

1 number of the person or entity to whom such account, funds, or other asset was remitted;
2 and

3 4. The identification of any safe deposit box, commercial mail box, or storage
4 facility that is either titled in the name, individually or jointly, of any Defendant, or is
5 otherwise subject to any Defendant's access or control; and

6 D. Upon Plaintiff's request, promptly provide Plaintiff with copies of all records or
7 other documentation pertaining to such account or asset including, without limitation, originals or
8 copies of account applications, account statements, signature cards, checks, drafts, deposit
9 tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency
10 transaction reports, 1099 forms, and safe deposit box logs.

11 **IV. REPATRIATION OF FOREIGN ASSETS**

12 **IT IS FURTHER ORDERED** that each Defendant shall:

13 A. Immediately upon service of this Order, or as soon as relevant banking hours
14 permit, transfer to the territory of the United States all funds, documents, and assets located in
15 countries outside of the U.S. and Canada that are held: (1) by the Defendant; (2) for his/her
16 benefit; or (3) under his/her direct or indirect control, jointly or singly;

17 B. Hold and retain all repatriated funds, documents, and assets, and prevent any
18 transfer, disposition, or dissipation of these funds, documents, and assets;

19 C. Provide Plaintiff with access to the Defendant's records and documents held by
20 financial institutions outside the territorial United States; and

21 D. Provide Plaintiff with a full accounting of all funds, documents, and assets outside
22 of the territory of the United States which are held: (1) by the Defendant; (2) for his/her benefit;
23 or (3) under his/her direct or indirect control, jointly or singly.

24 **V. MAINTENANCE OF RECORDS**

25 **IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants,
26 employees, and attorneys, and all other persons or entities in active concert or participation with
27 them who receive actual notice of this Order by personal service or otherwise, whether acting
28 directly or through any successor, assign, corporation, subsidiary, division, or other device, or any

1 of them, are hereby preliminarily restrained and enjoined from:

2 A. Failing to create and maintain books, records, and accounts, which in reasonable
3 detail, accurately, fairly, and completely reflect the incomes, disbursements, transactions, and use
4 of monies by Defendants;

5 B. Failing to maintain complete records of any consumer complaints and disputes,
6 whether coming from the consumer or any intermediary, such as a government agency or Better
7 Business Bureau, and any responses made to those complaints or disputes; and

8 C. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise
9 disposing of, in any manner, directly or indirectly, contracts, client lists, membership or mailing
10 lists, accounting data, correspondence, advertisements, computer tapes, disks, or other
11 computerized records, books, written or printed records, handwritten notes, telephone logs,
12 telephone scripts, "verification" tapes or other audio or video tape recordings, receipt books,
13 invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank
14 statements, appointment books, copies of federal, state or local business or personal income or
15 property tax returns, and other documents or records of any kind that relate to the business
16 practices or business or personal finances of any Defendant.

17 **VI. DEFENDANTS' FINANCIAL STATEMENTS**

18 **IT IS FURTHER ORDERED** that, to the extent not already provided, within twenty
19 days after service of this Order, each Defendant shall serve upon counsel for Plaintiff:

20 A. A completed financial statement on the forms attached to this Order as Attachment
21 A, attaching copies of all income and property tax returns, including attachments and schedules,
22 filed with any jurisdiction, as called for by the instructions to the financial statements. The
23 financial statements shall be accurate as of the date of the entry of this Order and shall be verified
24 under oath; and

25 B. A completed Consent to Release Financial Information form, attached to this
26 Order as Attachment B, providing Plaintiff with access to Defendants' records and documents
27 held by financial institutions or other entities outside the territorial United States.

28 **VII. CONSUMER CREDIT REPORTS**

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

4 **VIII. LIMITED EXPEDITED DISCOVERY**

5 **IT IS FURTHER ORDERED** that the Plaintiff is granted leave, at any time after service
6 of this Order, to take the deposition of any person or entity for the purpose of discovering the
7 nature, location, status, and extent of assets of any Defendant, and the location of documents
8 reflecting the business transactions of any Defendant, and to demand the production of documents
9 from any person or entity relating to the nature, status, and extent of any Defendant's assets and
10 the location of documents reflecting the business transactions of any Defendant. Notice of forty-
11 eight hours shall be deemed sufficient for any such deposition and five days notice shall be
12 deemed sufficient for the production of any such documents. Expedited discovery for any other
13 purpose shall not be allowed except by order of the Court for good cause shown. The limitations
14 and conditions set forth in Fed. R. Civ. P. 30(a)(2) regarding subsequent depositions of an
15 individual shall not apply to depositions taken pursuant to this paragraph.

16 **IX. DISTRIBUTION OF ORDER BY DEFENDANTS**

17 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this
18 Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director,
19 employee, independent contractor, agent, attorney, and representative of any Defendant, and to all
20 financial institutions that may be in possession of any documents, records, assets, property, or
21 property right of any Defendant. Within twenty days from the date of entry of this Order, each
22 Defendant shall provide Plaintiff with a sworn statement that the Defendant has complied with this
23 provision of the Order, which statement shall include the names and addresses of each such
24 person or entity who received a copy of the Order.

25 **X. NOTICE OF THIS ORDER**

26 **IT IS FURTHER ORDERED** that copies of this Order may be distributed by first class
27 mail, overnight delivery, facsimile, electronic mail, or personally, by agents and employees of
28 Plaintiff, upon any money transfer services business, credit card processing agent or agent

1 providing electronic funds transfer, debit draft, or ACH processing services, customer service
2 agent, commercial mail receiving agency, mail holding or forwarding company, bank, savings and
3 loan institution, credit union, financial institution, accountant, brokerage house, escrow agent,
4 IRA custodian, money market or mutual fund, title company, commodity futures merchant,
5 commodity trading company, common carrier, list manager, storage company, trustee, or any
6 other person, partnership, joint venture, corporation, or legal entity that may be in possession of
7 any documents, records, assets, property, or property right of Defendant, and any other person,
8 partnership, corporation, or legal entity that may be subject to any provision of this Order.
9 Service upon any branch or office of any financial institution or entity shall effect service upon the
10 entire financial institution or entity.

11 **XI. RETENTION OF JURISDICTION**

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

14 SO ORDERED, this 13 day of November 2007.

15
16 

17 **RICARDO S. MARTINEZ**
18 **UNITED STATES DISTRICT JUDGE**

19 Presented by:

20
21 KATHRYN C. DECKER, WSBA #12389
22 ELEANOR DURHAM, Maryland Bar
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26 **ATTORNEYS FOR PLAINTIFF**