

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. **3:08-cv-1000-J-25TEM**

NATIONWIDE CREDIT SERVICES, INC.,
a Florida corporation and
JAMES R. DOOLEY, individually and as
president of Nationwide Credit Services, Inc.,

Defendants.

**TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE
AND OTHER EQUITABLE RELIEF AND ORDER SETTING HEARING ON
MOTION FOR
PRELIMINARY INJUNCTION**

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"),
having filed its Complaint for Injunctive and Other Equitable Relief pursuant to
Section 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15
U.S.C. § 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations
Act, 15 U.S.C. § 1679h(b), and having moved for a temporary restraining
order and preliminary injunction under Rule 65 of the Federal Rules of Civil

Procedure, Fed. R. Civ. P. 65, and the Court, having considered the complaint, exhibits, declarations, and memorandum 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 the Court will have jurisdiction over all of the parties;
2. There is good cause to believe venue properly lies with this Court;
3. There is good cause to believe that Defendants have engaged in and are likely to continue to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the Credit Repair Organizations Act ("CROA"), 15 U.S.C. §§ 1679-1679j, and that Plaintiff 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 in the form of monetary restitution, rescission of contracts or disgorgement will occur from the sale, transfer, or other disposition or concealment by Defendants of their assets or corporate and/or business records unless the Defendants are immediately restrained and enjoined by Order of this Court.
5. Weighing the equities and considering Plaintiff's likelihood of success, a TRO with an asset freeze and other equitable relief is in the public

interest.

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

DEFINITIONS

For purposes of this Temporary Restraining Order ("Order"), the following definitions shall apply:

1. "**Asset**" or "**assets**" mean 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 all cash, wherever located.

2. "**Assisting others**" means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing or billing services of any kind.

3. **"Individual Defendant"** means James R. Dooley, or any alias of this individual.

4. **"Corporate Defendant"** means Nationwide Credit Services, Inc. and its successors and assigns.

5. **"Defendants"** mean the Individual Defendant and the Corporate Defendant, individually, collectively, or in any combination.

6. **"Credit repair organization"** means any person or entity that uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person or entity can or will sell, provide, or perform) any credit repair service.

7. **"Credit repair service"** means any service, in return for payment of money or other consideration, for the express or implied purpose of: (1) improving any consumer's credit record, credit history, or credit rating; or (2) providing advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer's credit record, credit history, or credit rating.

8. **"Document"** is synonymous in meaning and equal in scope to the term as defined in Federal Rule of Civil Procedure 34(a), and includes both documents

and electronically stored information, including, but not limited to, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. A draft or nonidentical copy is a separate document within the meaning of this term.

9. **"Material"** means likely to affect a person's choice of, or conduct regarding, goods or services.

10. **"Person"** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

11. **"Plaintiff"** means the Federal Trade Commission ("Commission" or "FTC").

12. The term **"and"** also means **"or,"** and the term **"or"** also means **"and."**

ORDER

PROHIBITED BUSINESS ACTIVITIES

I. INJUNCTION AGAINST MISREPRESENTATIONS IN VIOLATION OF THE FEDERAL TRADE COMMISSION ACT

IT IS HEREBY ORDERED that, in connection with the advertising, marketing, promotion, offering for sale, or sale of any goods or services, including, but not limited to, credit repair services, Defendants and each of their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from making any false or misleading representation, or assisting others in making any false or misleading representation, either orally or in writing, expressly or by implication, any material fact, including, but not limited to:

- A. That Defendants can permanently remove negative information from consumers' credit reports or profiles, even where such information is accurate and not obsolete;
- B. That Defendants or any other credit repair organization can improve substantially consumers' credit reports, credit profiles, or

credit scores; and

- C. Any fact material to a consumer's decision to purchase any goods or services from Defendants.

II. INJUNCTION AGAINST VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT

IT IS FURTHER ORDERED that in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services to consumers, Defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from violating or assisting others in violating the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j, as presently enacted or as it may hereafter be amended, by, including, but not limited to:

- A. Violating 15 U.S.C. § 1679j(b)(3) by making or using untrue or misleading representations to induce consumers to purchase their services, including, but not limited to, misrepresenting that a credit repair organization can improve substantially consumers' credit reports, credit profiles, or credit scores by permanently removing negative

information from consumers' credit reports, even where such information is accurate and not obsolete; and

B. Violating 15 U.S.C. § 1679l(b) by charging or receiving money or other valuable consideration for the performance of credit repair services that Defendants have agreed to perform before such services are fully performed.

III. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from:

A. Assigning, concealing, converting, disbursing, dissipating, encumbering, liquidating, loaning, pledging, selling, spending, transferring, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, artwork, automobiles, coins, consumer lists, contracts, precious metals, shares of stock, uncashed checks, or other assets, wherever located, that are:

1. owned or controlled by, or in the actual or constructive possession of any Defendant;
2. owned or controlled by, or held for the benefit of, directly or indirectly, any Defendant, in whole or in part;
3. held by an agent of any Defendant as a retainer for the agent's provision of services to any Defendant; or
4. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any asset held by or for any Defendant in any account at any bank or savings and loan institution, credit card processing agent, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, merchant account processor, check processor, money broker, or other financial institution or organization of any kind;

B. Opening or causing to be opened any safe deposit boxes or commercial mail boxes titled in the name of any Defendant, or subject to

access by any Defendant;

C. Incurring charges or cash advances on any credit card, debit card, or lines of credit issued in the name, individually or jointly, of any Defendant or any entity directly or indirectly owned, managed, or controlled by any Defendant;

D. Obtaining a personal or secured loan encumbering the assets of any Defendant, or subject to access to any Defendant; and

E. Incurring liens or other encumbrances on real property, personal property, or other asset held in the name, individually or jointly, of any Defendant, or any entity directly or indirectly owned, managed or controlled by any Defendant.

IT IS FURTHER ORDERED that the assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order.

IV. DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that, effective immediately upon notification of this Order, any financial or brokerage institution, escrow agent, money market or mutual fund, title company, commodity trading company, common carrier, storage company, trustee, commercial mail receiving agency, merchant account processor, mail holding or forwarding company, creditor or

credit card issuer, or any other person or entity having possession, custody or control of any assets or documents of any Defendant, or of any account, safe deposit box, or other asset of any Defendant, either individually or jointly, or held on behalf of or for the benefit of any Defendant, at any time since March 1, 2004, shall:

- A. Hold and retain within its control and prohibit the assignment, dissipation, encumbrance, pledge, removal, sale, transfer, withdrawal, or other disposal of any of the assets or other property held by, under its control, or on behalf of any Defendant in any account maintained in the name of, or for the benefit or use of, any Defendant, in whole or in part, except as directed by further order of this Court, or by written agreement of Plaintiff and the parties claiming an interest in such account or asset;
- B. Deny Defendants access to any safe deposit boxes, commercial mail boxes, or storage facilities that are titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant;

V. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION OR CUSTOMER LISTS

IT IS FURTHER ORDERED that, Defendants officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, and all other persons or entities in active concert or participation with 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, or any of them, are hereby temporarily restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any person who paid money to any of the Defendants for purchase of any good or service or who were contacted; provided that Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

VI. CREDIT REPORTS

IT IS FURTHER ORDERED that the Commission may obtain credit reports concerning Defendant James R. Dooley pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit reporting agency from which such report is requested shall provide it to the Commission.

VII. PRESERVE RECORDS AND REPORT NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from:

- A. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any books, records, tapes, discs, accounting data, checks (fronts and backs), correspondence, forms, advertisements, website designs and texts, telemarketing scripts or outlines, brochures, manuals, banking records, customer lists, customer files, customer payment histories, invoices, telephone records, ledgers, payroll records, or other

documents of any kind, including electronically stored information, in their possession, custody, or control that relate to the business practices or business or personal finances of any Defendant from March 1, 2004, to the present;

B. Failing to create and maintain books, records, accounts, bank statements, accountants' reports, cash disbursement ledgers, cash receipt ledgers, general journals, general ledgers, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately, completely, and fairly reflect the Defendants' incomes, disbursements, transactions, and use of funds; and

VIII. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each affiliate, agent, partner, division, sales entity, successor, assignee, officer, director, employee, independent contractor, spouse, Internet web host or master, agent, attorney, and/or representative of Defendants and shall, within ten (10) days from the date of entry of this Order, serve upon counsel for the Commission a sworn statement that the Defendants have complied with this provision of this Order, which statement shall include the names and addresses of each such person or entity who has

received a copy of the Order.

IX. SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, email, and overnight delivery service, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant, or that may be subject to any provision of this Order. Pursuant to Fed. R. Civ. P. 4(c)(2), this Order and the initial papers filed in this matter may be served on the Defendants, upon the business premises of the Defendants, and upon any financial institution or other entity or person that may have possession, custody or control of any documents or assets of any Defendant, or that may be subject to any provision of this Order, by employees of the Commission, by employees of any other law enforcement agency, by any agent of Plaintiff or by any agent of any process service retained by Plaintiff.

X. CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Barbara E. Bolton, Esq.
Federal Trade Commission
225 Peachtree Street, Suite 1500
Atlanta, Georgia 30303
(404) 656-1362 (telephone)
(404) 656-1379 (facsimile)

Notice may be provided by email to bbo_ton@ftc.gov.

XI. WITNESS IDENTIFICATION

IT IS FURTHER ORDERED that, if the Defendants intend to present the testimony of any witness at the hearing to show cause in this matter, they shall, at least forty-eight (48) hours prior to the scheduled date and time of hearing, serve on counsel for the Plaintiff a statement of the name, address, and telephone number of any such witness.

XII. ORDER REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, a hearing on Plaintiff's Motion for Preliminary Injunction is set for **Tuesday, October 28, 2008 at 10:30 a.m.** in Courtroom 10A, United States Courthouse 300 North Hogan Street, Jacksonville, Florida. Plaintiff is directed to serve the Summons, Complaint, its motion, including the exhibits attached thereto, and this Order forthwith on Defendants or their legal counsel. Defendants shall file and serve any opposing affidavits and/or responses no later than at **1:00 p.m. on the day preceding the hearing.**

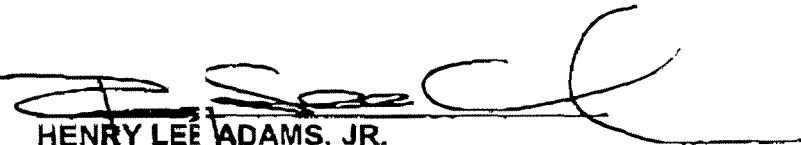
XIII. DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that, the Temporary Restraining Order granted herein shall continue until ruling on the request for a preliminary injunction, or upon entry of a stipulated preliminary injunction, not to exceed ten (10) days after the entry of this Order.

XIV. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this matter for all purposes. **IT IS SO ORDERED.**

DATED this 20 day of October, 2008, at 4:45 P.m. EST.


HENRY LEE ADAMS, JR.
United States District Judge