

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

\_\_\_\_\_  
FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FINANCIAL RESOURCES UNLIMITED, INC.,

SUPREME MAILING SERVICES, INC.,

MARK E. SHELTON, individually and as an  
officer of the corporate defendants,

dba

L. Lewis & Associates, A. Joseph & Associates

Defendants.  
\_\_\_\_\_

Civil Action No. 03 C 8864

Judge Joan B. Gottschall

Magistrate Martin C. Ashman

**TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE AND ORDER TO  
SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), having filed its complaint for a permanent injunction and other 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 having moved *ex parte* for a Temporary Restraining Order and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, 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 it will have jurisdiction of all parties hereto;

2. There is good cause to believe that the Commission will ultimately succeed in establishing that Defendants have engaged in and are likely to engage in the future in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a);

3. 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 restitution will occur from the sale, transfer, or other disposition or concealment by Defendants of their assets or corporate records unless Defendants are immediately restrained and enjoined by Order of this Court. There is thus good cause for relieving the Commission of the duty to provide Defendants with prior notice of the Commission's motion; and

4. Weighing the equities and considering the Commission's likelihood of ultimate success, a Temporary Restraining Order with asset freeze and other equitable relief is in the public interest.

#### **DEFINITIONS**

For the purpose of this temporary restraining order, the following definitions shall apply:

1. "Defendant" or "Defendants" means Financial Resources Unlimited, Inc., Supreme Mailing Services, Inc., and Mark E. Shelton, and dba L. Lewis & Associates, A. Joseph & Associates.

2. "Asset" or "assets" means all real and personal property of any Defendant, or held for the benefit of any Defendant, 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), and all cash, wherever located.

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

4. "Person" or "persons" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

5. "Customer" means any person who has paid or may be required to pay for goods or services.

6. The term "document" or "documents" means any materials listed in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate document within the meaning of the term.

7. "Assisting others" means: (1) performing customer service functions including, but not limited to, receiving or responding to consumer complaints, receiving identifying and financial information from consumers, and communicating with consumers about extensions of credit; (2) developing, providing or arranging for the development or provision of sales scripts or any other marketing material; (3) providing names of, or arranging for the provision of names of, potential customers; or (4) performing marketing services of any kind.

**I.**

**CEASE AND DESIST**

**IT IS THEREFORE ORDERED THAT** Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, 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:

- A. Misrepresenting, directly or by implication, that consumers who purchase Defendants' purported work-at-home opportunity are likely to earn a substantial amount of money;
- B. Misrepresenting expressly or by implication, that Defendants will pay \$10.00 per envelope for all or many of the envelopes stuffed and mailed by consumers;
- C. Misrepresenting expressly or by implication, that Defendants will pay the cost of postage needed to mail advertising circulars and letters;
- D. Furnishing others with the means and instrumentalities to commit deception, including, but not limited to, furnishing advertising circulars and letters that contain false and misleading representations;
- E. Misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any product, program or service; and
- F. Assisting others who violate any provision of Subsections A through E of this Section.

## II.

### 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, 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, except as provided in Section III below, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any funds, property, artwork, coins, precious metals, jewelry, contracts, shares of stock, or other assets, wherever located, that are (1) owned or controlled by any Defendant, in whole or in part; or (2) in the actual or constructive possession of any Defendant; or (3) owned, controlled by, or in the actual or constructive possession of any Defendant, or any other 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 assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding 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 of any kind either within or outside the United States;

B. Opening or causing to be opened any safe deposit 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 Plaintiff prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section; and

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

Notwithstanding the asset freeze provisions of Paragraph II. A - C above, and unless otherwise ordered by the Court: (1) Defendant Mark E. Shelton, may pay from his individual personal funds reasonable, usual, ordinary, and necessary living expenses of up to \$500 per week; and (2) Defendants Financial Resources Unlimited, Inc., and Supreme Mailing Services, Inc., together, may pay reasonable, usual, ordinary, and necessary business expenses, including, but not limited to, payroll expenses, aggregating up to \$500 per week. Defendants shall maintain a record of all payments made pursuant to this proviso and provide Plaintiff with a copy of that record within three days following the end of each weekly period in which Defendants have made payments pursuant to this proviso.

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

### III.

#### MAINTAIN 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, 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 restrained and enjoined from:

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

B. 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, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form (such as electronic mail), in their possession, custody or control; and

C. Creating, operating, or exercising any control over any new business entity, including any partnership, sole proprietorship, or corporation, without first providing Plaintiff with a written statement disclosing: (1) the name of the business entity; (2) the address and

telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

#### IV.

#### **COMPLETE AND FILE FINANCIAL STATEMENT**

**IT IS FURTHER ORDERED** that each Defendant shall provide this Court and serve upon counsel for the Commission, at least seventy-two (72) hours prior to the hearing on a preliminary injunction in this matter, but in no event later than two weeks after entry of this Order, completed financial statements on the forms served with this Order, in the form of Appendix A for him or herself individually, and in the form of Appendix B for each corporation or business entity under which he or she conducts business or of which he or she is an officer, and for each trust of which he or she is a trustee, accurate as of the date of service of this Order upon such Defendant. Said financial statements shall include assets held outside of the territory of the United States. Defendants shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules as called for by the instructions to the financial statements.

#### V.

#### **DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS**

**IT IS FURTHER ORDERED** that, pending determination of Plaintiff's request for a preliminary injunction, that any of the entities named in Section II. A above, maintaining or having custody or control of any account or other asset of any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under



common control with any Defendant, or that at any time since August 2000, has maintained or had custody of any such account or other asset, and which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any of the assets, funds, or other property held by, or under its control, on behalf of any Defendant in any account maintained in the name of or for the benefit of any Defendant, in whole or in part, except in accordance with any further order of the Court;

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant;

C. Within five (5) business days of the date of service of this Order provide to counsel for Plaintiff a certified statement setting forth:

1. The identification of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;

2. The balance of each such account, or a description and appraisal of the value of such asset, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed since August 2000, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification and location of any safe deposit box or storage facility that is either titled in the name individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant; and

D. Allow representatives of Plaintiff immediate access to inspect and copy any records or other documents pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

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

## VI.

### **DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each of their corporations and corporations' employees, subsidiaries, affiliates, directors, officers, employees, agents, and independent contractors. Within twenty-one calendar days following service of this Order by Plaintiff, Defendants shall file with this Court and serve on Plaintiff, an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

## VII.

### EXPEDITED DISCOVERY

**IT IS FURTHER ORDERED** that Plaintiff is 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, location, status, and extent of Defendants' assets, the nature and location of documents reflecting the business transactions of Defendants, and the applicability of any evidentiary privileges to this action; and to (2) demand the production of documents from any person or entity relating to the nature, status, and extent of Defendants' assets, the location of documents reflecting the business transactions of Defendants, and the applicability of any evidentiary privileges to this action. Three (3) days notice shall be deemed sufficient for any such deposition, five (5) days notice shall be deemed sufficient for the production of any such documents, and twenty-four (24) hours notice shall be deemed sufficient for the production of any such computer data. The provisions of this Section shall apply both to parties to this case and to non-parties.

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 or the Local Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, including those set forth in Fed.R.Civ.P. 30(a)(2)(A) and 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery.

**VIII.**

**SERVICE OF ANSWERING AFFIDAVITS, MEMORANDA, AND OTHER EVIDENCE**

**IT IS FURTHER ORDERED** that Defendants shall serve answering affidavits, pleadings, and legal memoranda on counsel for Plaintiff not less than three (3) business days prior to the hearing on Plaintiff's request for a preliminary injunction. Defendants shall serve copies of all such materials on Plaintiff by delivery or facsimile to John C. Hallerud, Esq., Federal Trade Commission, 55 East Monroe Street, Suite 1860, Chicago, Illinois 60603, facsimile (312) 960-5600.

**IX.**

**WITNESS LIST**

**IT IS FURTHER ORDERED** 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 all parties shall, at least seventy-two (72) hours prior to the scheduled date and time of hearing, file with this Court and serve on counsel for the other party a statement of the name, address, and telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit or declaration revealing the substance of such witness' expected testimony.

**X.**

**SERVICE OF THIS ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by first class mail, overnight delivery, facsimile, electronic mail, or personally, by employees or agents of Plaintiff, upon any bank, savings and loan institution, credit union, financial institution,

brokerage house, escrow agent, retirement fund custodian, money market or mutual fund, title company, commodity trading company, common carrier, storage company, trustee, credit card processing agent, automated clearing house, network transaction processor, bank debit processing agent, commercial mail receiving agency, mail holding or forwarding company, Internet service provider, or any other person, partnership, corporation, or legal entity that may be in possession of any documents, records, assets, property, or property right of any Defendant, and any other person, partnership, corporation, or legal entity that may be subject to any provision of this Order.

**XI.**

**CONSUMER REPORTING AGENCIES**

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

**XII.**

**EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER**

**IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein shall expire on December 22, 2003, at 11:59 p.m., unless within such time the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XIII.

DATE OF NEXT COURT PROCEEDING

IT IS FURTHER ORDERED that each Defendant shall appear before this Court on the \_\_\_ day of To be set by Magistrate Judge Ashman, 2003, at \_\_\_ .m. at the United States Courthouse, Courtroom \_\_\_\_\_, Chicago, Illinois, to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the complaint, enjoining said Defendant from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), continuing the freeze of assets, and imposing such additional relief as may be appropriate.

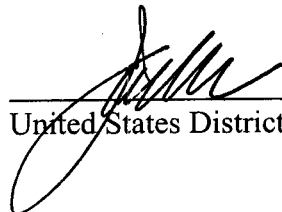
XIV.

JURISDICTION

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

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

IT IS SO ORDERED, this 15<sup>th</sup> day of December, 2003, at 9 a.m.

  
\_\_\_\_\_  
United States District Judge