

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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U.S. DISTRICT COURT
AUSTIN, TEXAS
[Signature]

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CASTLE PUBLISHING, a Texas sole proprietorship, and TREIGH DUSTIN HUBBARD, individually, and as the sole owner of Castle Publishing,

Defendants.

Case No.

A03 CA 905SS

**EX PARTE TEMPORARY
RESTRAINING ORDER
FREEZING ASSETS AND
ORDER TO SHOW CAUSE WHY
A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

(Proposed)

Plaintiff, the Federal Trade Commission ("FTC"), has filed a complaint for a permanent injunction and other relief, including restitution to consumers, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The FTC has also applied for an *ex parte* temporary restraining order freezing assets and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. The Court has considered the pleadings, declarations, exhibits, and memorandum filed in support thereof, and finds:

1. This Court has jurisdiction of the subject matter of this case and there is good cause to believe it will have jurisdiction over all parties hereto.
2. There is good cause to believe the FTC will ultimately succeed in establishing that

TRO AND ORDER TO SHOW CAUSE

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defendants Castle Publishing and Treigh Dustin Hubbard, have engaged in and are likely to engage 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 will be done to the public and to this Court's ability to grant full and effective relief among the parties hereto absent entry of this Order.
4. Weighing the equities and considering the FTC's likelihood of ultimate success, a Temporary Restraining Order is in the public interest.

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that defendants, in connection with the advertising, offering for sale, or sale of any work-at-home product or service, are hereby temporarily restrained and enjoined from:

- A. Representing, directly or by implication, orally or in writing, that:
 1. Consumers who purchase defendants' work-at-home product or service are likely to earn a substantial amount of money, such as \$590.00 to \$5,000.00 per week.
 2. Defendants will pay consumers \$10.00 per envelope for all or many of the envelopes stuffed and mailed by the consumers.
 3. Defendants will pay the cost of postage needed to mail defendants' "special letters" or other offerings of products or services.
- B. Furnishing consumers with advertising circulars and letters that contain false and misleading representations, including but not limited to those prohibited by ¶ I.A above.

TRO AND ORDER TO SHOW CAUSE

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II. ASSET FREEZE

IT IS FURTHER ORDERED that, except as stipulated by the parties or as directed by further order of the Court, defendants and their successors and assigns, whether acting directly or through any entity, corporation, subsidiary, division or other device, and all persons 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 transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any asset, wherever located, that is (a) owned or controlled by any defendant, in whole or in part; or (b) in the actual or constructive possession of any defendant; or (c) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any defendant. The assets affected by this section shall include both existing assets and assets acquired after issuance of this Order, and defendants shall hold and account for these assets and all payments received by them, including, but not limited to, borrowed funds or property and gifts.

III. DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that, except as stipulated by the parties or as directed by further order of the Court, any financial or brokerage institution, escrow agent, trustee, title company, commodity trading company, business entity, or person that holds, controls, or maintains accounts or assets belonging to or titled in the name of any defendant, or to which any of these defendants is a signatory, or which is held on behalf of or for the benefit of any of these defendants, individually or jointly, or has held, controlled or maintained custody of any such asset at any time since January 1, 2001, shall:

TRO AND ORDER TO SHOW CAUSE

A. Prohibit all persons and entities from transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any such asset.

B. Deny all persons and entities access to any safe deposit box that is titled in the name of any defendant, either individually or jointly, or otherwise subject to access by any defendant.

C. Provide to counsel for the FTC, within five (5) business days of receiving a copy of this Order, a certified statement setting forth:

1. the identification number 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 identified account, or a description of the nature and value of the 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 January 1, 2001, 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 the account or other asset was remitted; and
3. the identification and location of any safe deposit box that is either titled in the name, individually or jointly, of any defendant, or is otherwise subject to access by any defendant.

D. Upon request, promptly provide to the FTC copies of all records or other

documentation pertaining to such account or asset described in ¶ III.C above, 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.

IV. WITHHOLDING OF MAIL

IT IS FURTHER ORDERED that all commercial mail receiving agencies where defendants maintain accounts, including those at 3639 Midway Drive, Suite B-292, San Diego, California 92110-5254; 11765 West Avenue, #301, San Antonio, Texas 78216; 5030 North May, #347, Oklahoma City, Oklahoma 73112; 700 North Colorado Boulevard, Suite 288, Denver, Colorado 80206; 2123 FM 1960 West, Suite 208, Houston, Texas 77090-3103; and 10580 North McCarran Boulevard, #115-396, Reno, Nevada 89503, shall, for the duration of this Order, retain and forward to plaintiff, at the address designated in Section XIII below, all mail received at the CMRA that is addressed to Castleguard Publishing, Bigcastle Publishing, Bluecastle Publishing, Castlebridge Publishing, Castledoor Publishing, Stonecastle Publishing, and/or addressed to any other name under which the defendants are doing business.

V. ACCOUNTS RECEIVABLE

IT IS FURTHER ORDERED that defendants shall immediately cease all attempts to collect on any amounts currently owed to them by any purchaser of defendants' work-at-home program, and shall withdraw from collection all customer accounts assigned to a third-party collection agency, or immediately notify any such third-party collection agency that they are to immediately cease all collection activity on said accounts, and to notify any such third-party collection agency to forward, to an account to be designated by the plaintiff, all funds collected

but not yet forwarded to defendants. Defendants shall also immediately cease from making any negative credit report on any customer to any credit reporting agency.

VI. MAINTENANCE OF RECORDS BY DEFENDANTS

IT IS FURTHER ORDERED that defendants and their successors and assigns, whether acting directly or through any entity, corporation, subsidiary, division or other device and all persons 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:

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

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

C. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any contracts, membership or mailing (including "E-mail") lists, accounting data, correspondence, advertisements, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, "verification" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, 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 defendants.

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VII. MAINTENANCE OF RECORDS BY THIRD PARTIES

IT IS FURTHER ORDERED that all persons in active concert or participation with defendants or in possession of any records of defendants are hereby temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any contracts, membership or mailing (including "E-mail") lists, accounting data, correspondence, advertisements, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, "verification" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, 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 defendants.

VIII. DEFENDANTS' FINANCIAL STATEMENTS

IT IS FURTHER ORDERED that defendants shall, within four (4) business days from entry of this Order, prepare and deliver to counsel for the FTC completed financial statements on the forms attached to this Order. The completed financial statements shall be accurate as of the date of service of this Order upon defendants.

IX. CONSUMER CREDIT REPORTS

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

X. THIRD PARTY DISCOVERY

IT IS FURTHER ORDERED that the FTC is granted leave, at any time after service of this Order, to take the deposition of any person or entity for the purpose of discovering the nature, location, status, and extent of assets of Castle Publishing, The Brigadier Group, LLC, and Treigh Dustin Hubbard, and the location of documents reflecting the business transactions of these defendants, and to demand the production of documents from any person or entity relating to the nature, status, and extent of these defendants' assets and the location of documents reflecting the business transactions of these defendants; forty-eight (48) hours notice shall be deemed sufficient for any such deposition and five (5) days notice shall be deemed sufficient for the production of any such documents. Expedited discovery for any other purpose shall not be allowed except by order of the Court for good cause shown. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this paragraph.

XI. CREATION OF OTHER BUSINESSES

IT IS FURTHER ORDERED that defendants are hereby temporarily restrained and enjoined from creating, operating, or controlling any business entity, whether newly-formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing the 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.

XII. NOTICE TO RELATED PERSONS AND ENTITIES

IT IS FURTHER ORDERED that defendants shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and representative, and shall, within ten (10) days from the date of entry of this Order, provide plaintiff with a sworn statement that defendants have 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.

XIII. FILING OF PLEADINGS

IT IS FURTHER ORDERED that defendants shall file their opposition, including any declarations, exhibits, memoranda, or other evidence on which defendants intend to rely, not less than three (3) business days before the hearing on the order to show cause why a preliminary injunction should not issue. Defendants shall serve copies of all these materials on plaintiff by delivery or facsimile to designated counsel for the Federal Trade Commission, at 915 Second Avenue, Suite 2896, Seattle, Washington 98174, prior to 4:00 p.m. on the day that it is filed.

XIV. WITNESSES AT HEARINGS

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 party shall, at least three (3) business days 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 that witness, and either a summary of the witness's expected testimony, or the witness's declaration or affidavit revealing the substance of the witness's expected testimony; and that, after the service of the statement, the served party thereafter shall have two business days

from the time of service of the witness information to provide information to the Court and to the serving party for any witness whose testimony the served party intends to present.

XV. EXPIRATION

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein expires ten (10) days after entry unless, within that time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is extended with the consent of the parties.

XVI. SHOW CAUSE

IT IS FURTHER ORDERED that each of the defendants shall appear before this Court on the 17th day of December, 2003, at 9:00 o'clock A.m., to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against these defendants, enjoining them from further violations of Section 5 of the FTC Act, 15 U.S.C. § 45(a), continuing the relief provided herein and imposing whatever additional relief may be appropriate.

XVII. SERVICE OF ORDER

IT IS FURTHER ORDERED that plaintiff's agents or employees may serve this Order 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 any other person or entity that may be otherwise subject to any provision of this Order, by delivering a copy by any means, including facsimile transmission.

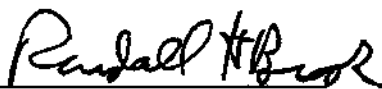
XVIII. RETENTION OF JURISDICTION

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

SO ORDERED, this 9th day of November, 2003, at 4:45 p.m.


United States District Judge

PRESENTED BY:


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