

The Honorable Judge McNamee

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
AT PHOENIX

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

VECTOR DIRECT MARKETING, LLC;
MIKE STAFFORD; and LISA MILLER,

Defendants.

Case No. CV04 0095 PHX SMM

PRELIMINARY INJUNCTION

(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 with asset freeze 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 defendants Vector Direct Marketing, LLC, Mike Stafford, and Lisa Miller 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).

1 3. There is good cause to believe that immediate and irreparable damage will be done to
2 the public and to this Court's ability to grant full and effective relief among the parties
3 hereto absent entry of this Order.

4 4. Weighing the equities and considering the FTC's likelihood of ultimate success, a
5 Temporary Restraining Order is in the public interest.

6 **I. PROHIBITED BUSINESS ACTIVITIES**

7 IT IS THEREFORE ORDERED that defendants, in connection with the advertising, offering
8 for sale, or sale of products or services purported to stop telemarketing solicitations and/or to protect
9 consumers' personal financial information from fraud, are hereby temporarily restrained and enjoined
10 from:

11 A. Representing, directly or by implication, orally or in writing, that consumers' personal
12 information, such as social security, credit card, and bank account numbers, appear on telemarketing
13 lists, making the consumers a likely target for fraud, and that defendants will cause consumers'
14 personal financial information to be removed from the telemarketing lists that include that information.

15 B. Causing charges to be billed to consumers' credit cards, or causing consumers' bank
16 accounts to be debited, without the consumers' authorization and express informed consent.

17 C. Using threats or intimidation to induce consumers who have attempted to stop payment
18 to pay for defendants' products and services.

19 **II. ASSET FREEZE**

20 IT IS FURTHER ORDERED that, except as stipulated by the parties or as directed by further
21 order of the Court, defendants and their successors and assigns, whether acting directly or through any
22 entity, corporation, subsidiary, division or other device, and all persons in active concert or
23 participation with them who receive actual notice of this Order by personal service or otherwise, are
24 hereby temporarily restrained and enjoined from transferring, converting, encumbering, selling,
25 concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any
26 asset, wherever located, that is (a) owned or controlled by any defendant, in whole or in part; or (b) in
27 the actual or constructive possession of any defendant; or (c) owned, controlled by, or in the actual or
28 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

1 assets and assets acquired after issuance of this Order, and defendants shall hold and account for these
2 assets and all payments received by them, including, but not limited to, borrowed funds or property
3 and gifts.

4 **III. DUTIES OF ASSET HOLDERS**

5 IT IS FURTHER ORDERED that, except as stipulated by the parties or as directed by further
6 order of the Court, any financial or brokerage institution, escrow agent, trustee, title company,
7 commodity trading company, business entity, or person that holds, controls, or maintains accounts or
8 assets belonging to or titled in the name of any defendant, or to which any of these defendants is a
9 signatory, or which is held on behalf of or for the benefit of any of these defendants, individually or
10 jointly, or has held, controlled or maintained custody of any such asset at any time since January 1,
11 2001, shall:

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

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

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

- 19 1. the identification number of each account or asset titled in the name,
20 individually or jointly, of any defendant, or held on behalf of, or for the benefit of, any
21 defendant, including all trust accounts managed on behalf of any defendant or subject to
22 any defendant's control;
- 23 2. the balance of each identified account, or a description of the nature and value
24 of the asset as of the close of business on the day on which this Order is served, and, if
25 the account or other asset has been closed or removed since January 1, 2001, the date
26 closed or removed, the total funds removed in order to close the account, and the name
27 of the person or entity to whom the account or other asset was remitted; and
28

1 **V. MAINTENANCE OF RECORDS BY THIRD PARTIES**

2 IT IS FURTHER ORDERED that all persons in active concert or participation with defendants
3 or in possession of any records of defendants are hereby temporarily restrained and enjoined from
4 destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any
5 manner, directly or indirectly, any contracts, membership or mailing (including "E-mail") lists,
6 accounting data, correspondence, advertisements, computer tapes, disks, or other computerized
7 records, books, written or printed records, handwritten notes, telephone logs, telephone scripts,
8 "verification" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts,
9 ledgers, personal and business canceled checks and check registers, bank statements, appointment
10 books, copies of federal, state or local business or personal income or property tax returns, and other
11 documents or records of any kind that relate to the business practices or business or personal finances
12 of defendants.

13 **VI. DEFENDANTS' FINANCIAL STATEMENTS**

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

18 **VII. CONSUMER CREDIT REPORTS**

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

22 **VIII. CREATION OF OTHER BUSINESSES**

23 IT IS FURTHER ORDERED that defendants are hereby temporarily restrained and enjoined
24 from creating, operating, or controlling any business entity, whether newly-formed or previously
25 inactive, including any partnership, limited partnership, joint venture, sole proprietorship or
26 corporation, without first providing the plaintiff with a written statement disclosing: (1) the name of
27 the business entity; (2) the address and telephone number of the business entity; (3) the names of the
28 business entity's officers, directors, principals, managers, and employees; and (4) a detailed description
of the business entity's intended activities.

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1 **IX. NOTICE TO RELATED PERSONS AND ENTITIES**

2 IT IS FURTHER ORDERED that defendants shall immediately provide a copy of this Order to
3 each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee,
4 independent contractor, agent, attorney, and representative, and shall, within ten (10) days from the
5 date of entry of this Order, provide plaintiff with a sworn statement that defendants have complied
6 with this provision of the Order, which statement shall include the names and addresses of each such
7 person or entity who received a copy of the Order.

8 **X. SERVICE OF ORDER**

9 IT IS FURTHER ORDERED that plaintiff's agents or employees may serve this Order upon
10 any financial institution, or other entity or person that may have possession, custody, or control of any
11 documents or assets of any defendant or any other person or entity that may be otherwise subject to
12 any provision of this Order, by delivering a copy by any means, including facsimile transmission.

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14 **XI. RETENTION OF JURISDICTION**

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

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18 DATED this ____ day of _____, 2004.

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21 Stephen M. McNamee
22 United States District Judge
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