

ORIGINAL

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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

FILED FILED
MAY 29 2003
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature]

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13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 PATRICK CELLA, an individual,
d/b/a QUIK CASH, U-MAIL,
17 INNOVATIVE SERVICES,
CENTRAL SOLUTIONS,
18 PARALLAX BUSINESS SERVICES,
and ACE DISTRIBUTING CENTER,

19 IRENE HERRERA, an individual,
20 d/b/a QUIK CASH, INNOVATIVE
SERVICES, CENTRAL SOLUTIONS
and EXECUTIVE WORLDWIDE,

22 JAMES ZEZULA, an individual, d/b/a
EASY MONEY, COAST
23 DISTRIBUTING and CREDIT
SOLUTIONS, and

25 VINCENT ZEZULA, an individual,
d/b/a COAST DISTRIBUTING and
EXECUTIVE WORLDWIDE,

27 Defendants.

CV-03-3202 GAF (SHSx)

STIPULATED
PRELIMINARY INJUNCTION
WITH ASSET FREEZE AND
OTHER EQUITABLE RELIEF
AS TO DEFENDANT'S IRENE
HERRERA, JAMES ZEZULA AND
VINCENT ZEZULA

ENTERED ON ICMS
MAY 30 2003
CV [Signature]

1 Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), having
2 filed its Complaint for a permanent injunction and other relief in this matter, pursuant
3 to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.
4 § 53(b), and the Court having issued an ex parte Temporary Restraining Order,
5 considered the pleadings, evidence, memoranda of law and argument of counsel of
6 the parties, finds that:

7 1. This Court has jurisdiction over the subject matter of this case, and there
8 is good cause to believe it will have jurisdiction of all parties hereto, pursuant to 15
9 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345. The Complaint
10 states a claim upon which relief may be granted under Sections 5 and 13(b) of the
11 FTC Act, 15 U.S.C. §§ 45 and 53(b);

12 2. There is good cause to believe that Defendants have engaged in and are
13 likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15
14 U.S.C. § 45(a), and that the Commission has therefore demonstrated a substantial
15 likelihood of prevailing on the merits of this action;

16 3. Unless the Court continues the asset freeze, there is a substantial
17 likelihood that Defendants will conceal, dissipate, or otherwise divert their assets, and
18 defeat the Court's ability to grant effective final relief in the form of equitable
19 monetary relief for consumers. Defendants have likely retained ill-gotten gains
20 derived from their deceptive practices, including: misrepresenting to consumers that
21 they are likely to earn a substantial amount of money after purchasing Defendants'
22 Work-At-Home Opportunity; falsely claiming that they will provide pamphlets for
23 mailing with pre-addressed, pre-stamped envelopes, and that they will pay consumers
24 \$1 for each stuffed envelope; falsely promising that they will provide refunds to
25 consumers; providing consumers with the means and instrumentalities to commit
26 deceptive acts and practices by furnishing them with false and misleading materials,
27 including an instruction booklet, a sales pamphlet, and a credit repair manual; and
28 misrepresenting their identity by suggesting they have an affiliation with well-known
email service providers. An asset freeze is reasonably necessary in order to preserve

1 the possibility of complete and meaningful relief at the conclusion of this litigation.

2 4. Weighing the equities and considering the Commission's likelihood of
3 ultimate success, a Preliminary Injunction with an asset freeze and other equitable
4 relief is in the public interest; and

5 5. No security is required of any agency of the United States for issuance
6 of a preliminary injunction. Fed. R. Civ. P. 65(c).

7 **ORDER**

8 **Definitions**

9 A. "Assets" means any legal or equitable interest in, right to, or claim to,
10 any real and personal property, including but not limited to chattel, goods,
11 instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises,
12 contracts, mail or other deliveries, shares of stock, lists of consumer names,
13 inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever
14 located.

15 B. "Defendants" means Patrick Cella, individually and d/b/a Quik Cash, U-
16 Mail, Innovative Services, Central Solutions, Parallax Business Services, and Ace
17 Distributing Center; Irene Herrera, individually and d/b/a Quik Cash, Innovative
18 Services, Central Solutions, and Executive Worldwide; James Zezula, individually
19 and d/b/a Easy Money, Coast Distributing, and Credit Solutions; Vincent Zezula,
20 individually and d/b/a Coast Distributing and Executive Worldwide; any other d/b/a
21 names associated with these four individuals; each of them individually, collectively,
22 or in any combination; and their officers, agents, servants, employees, and all persons
23 or entities in active concert or participation with them who receive notice of this order
24 by personal service or otherwise.

25 C. "Document" is synonymous in meaning and equal in scope to the usage
26 of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings,
27 graphs, charts, photographs, audio and video recordings, computer records, and other
28 data compilations from which information can be obtained and translated, if
necessary, into reasonably usable form through detection devices. A draft or non-

1 identical copy is a separate document within the meaning of the term.

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

4 E. "Plaintiff" means the Federal Trade Commission ("Commission").

5 F. "Relate to" means refer to, concern, regard, reflect, discuss, constitute,
6 mention, pertain to, allude to or associate with. "Relating to" means referring to,
7 concerning, regarding, reflecting, discussing, constituting, mentioning, pertaining to,
8 alluding to or associated with.

9 G. "Work-At-Home Opportunity" means any program, plan, product or
10 service that enables a participant or purchaser to earn money by working at home.

11 I. INJUNCTION AGAINST

12 MISREPRESENTATIONS

13 **IT IS THEREFORE ORDERED** that in connection with the advertising,
14 promotion, offering or sale of goods or services in or affecting commerce, Defendants
15 are hereby preliminarily restrained and enjoined from making, or assisting others in
16 making, any express or implied representation or omission of material fact that is
17 false or misleading, in any manner, directly or indirectly, to any consumer or entity,
18 including, but not limited to, the following:

19 A. Representing that consumers are likely to earn a substantial amount of
20 money from Defendants' Work-At-Home Opportunity;

21 B. Representing that Defendants will provide consumers with pamphlets for
22 mailing with pre-addressed, pre-stamped envelopes to stuff;

23 C. Representing that Defendants will pay consumers for each envelope they
24 stuff and mail;

25 D. Representing that Defendants will fully refund consumers' payments;

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1 E. Representing that Defendants are affiliated with Internet-related
2 businesses, including, but not limited to, Hotmail, MSN or Pacific Bell, or a company
3 affiliated with these businesses;

4 F. Representing the nature of any Work-At-Home Opportunity offered or
5 sold;

6 G. Representing any material term, condition, or limitation of the transaction
7 or about the use of any offered good or service; and

8 H. Representing that Defendants or any other person can improve any
9 consumers' credit record, credit history, or credit rating by removing or obtaining
10 removal of negative information that is accurate and not obsolete from such credit
11 record, credit history, or credit rating.

12 **II. INJUNCTION AGAINST PROVIDING OTHERS WITH**
13 **THE MEANS AND INSTRUMENTALITIES TO**
14 **VIOLATE SECTION 5 OF THE FTC ACT**

15 **IT IS FURTHER ORDERED** that in connection with the offering for sale or
16 sale of credit repair manuals and credit repair sales brochures, Defendants are hereby
17 preliminarily restrained and enjoined from providing to others the means and
18 instrumentalities with which to make, expressly or by implication, orally or in
19 writing, any false or misleading statement or representation of material fact,
20 including, but not limited to:

21 A. Any fact material to a consumer's decision to purchase the Defendants'
22 services or products;

23 B. Any statement that anyone can substantially improve consumers' credit
24 reports or profiles by effectuating permanent lawful removal of bankruptcies,
25 foreclosures, slow payments, court judgments, liens, or other negative information
26 from consumers' credit reports where such information is accurate and not obsolete;
27 and

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1 C. Any statement that consumers' credit reports or profiles can be
2 substantially improved by effectuating permanent lawful removal of bankruptcies,
3 foreclosures, slow payments, court judgments, liens, or other negative information
4 from consumers' credit reports where such information is accurate and not obsolete.

5 **III. ASSET FREEZE**

6 **IT IS FURTHER ORDERED** that Defendants who receive actual notice of
7 this Order by personal service, facsimile or otherwise, are hereby preliminarily
8 restrained and enjoined from:

9 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
10 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing,
11 perfecting a security interest in, or otherwise disposing of any assets, wherever
12 located, inside or outside the United States of America, that are: (1) held on behalf,
13 for the benefit of, or owned or controlled, directly or indirectly, by any Defendant in
14 whole or in part, including but not limited to property, bank accounts, or other assets
15 where the title is taken in his or her name, as joint tenancy or common ownership
16 with a non-party, co-owned with a spouse, or held in trust; (2) in the actual or
17 constructive possession of any Defendant; or (3) owned, controlled by, or in the
18 actual or constructive possession of any corporation, partnership, or other entity
19 directly or indirectly owned, managed, or controlled by, or under common control of
20 any Defendant, including but not limited to any assets held for by, or under the name
21 of, any Defendant or subject to access by any Defendant at any bank or savings and
22 loan institution or with any broker, dealer, escrow agent, title company, commodity
23 trading company, precious metal dealer, or other financial institution or depository of
24 any kind;

25 B. Opening or causing to be opened any safe deposit boxes titled in the
26 name of any Defendant, or subject to access by any Defendant;

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

D. Obtaining a personal or secured loan in the name of any Defendant,

1 singly or jointly; and

2 E. Incurring liens or other encumbrances on real property, personal property
3 or other assets in the name, singly or jointly, of any Defendant.

4 Provided, however, that the assets affected by this Paragraph shall include: (1)
5 all of the assets of any Defendant existing as of the date this Order was entered; (2)
6 for assets obtained after the date this Order was entered, only those assets of any
7 Defendant that are derived from or otherwise related to the sale of Work-At-Home
8 Opportunities; and (3) no assets relating to wages (i) earned by Lindsey Zezula and
9 (ii) previously deposited into an account in the names of Lindsey Zezula and Irene
10 Herrera, provided that proof of such earned wages is provided to counsel for the
11 Commission.

12 **IV. RETENTION OF ASSETS AND RECORDS BY**
13 **FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES**

14 **IT IS FURTHER ORDERED** that any financial or brokerage institution,
15 escrow agent, title company, commodity trading company, business entity, or person
16 served with a copy of this Order that holds, controls or maintains custody of any
17 accounts or assets of any Defendant, or has held, controlled or maintained any
18 accounts or assets of any Defendant at any time since November 1, 1999 shall
19 continue to:

20 A. Hold and retain within its control and prohibit any Defendant from
21 withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing,
22 dissipating, converting, selling, or otherwise disposing of any account, funds,
23 property or other asset:

24 1. Maintained in the name of, or subject to withdrawal or access by
25 any Defendant;

26 2. Held on behalf or for the benefit of any Defendant; or

27 3. Subject to access or use by any Defendant.

28 Provided, however, that this Order shall not:

(i) prohibit transfers as directed by further order of the Court;

1 or

2 (ii) prohibit transfers for specific transfers authorized in writing
3 by counsel for the Commission.

4 B. Deny any Defendant access to any safe deposit box that is:

5 1. Titled in the name of any Defendant, either individually or jointly;

6 or

7 2. Otherwise subject to access by any Defendant, either individually
8 or jointly.

9 C. The Commission is granted leave, pursuant to Fed. R. Civ. P. 45, and
10 notwithstanding Fed. R. Civ. P. 26, to subpoena documents immediately from any
11 such financial institution, account custodian, or other aforementioned entity
12 concerning the nature, location, status, and extent of Defendants' assets, and
13 compliance with this Order.

14 **V. REPATRIATION OF ASSETS AND DOCUMENTS**
15 **LOCATED IN FOREIGN COUNTRIES**

16 **IT IS FURTHER ORDERED** that each Defendant, whether acting through
17 any trust, corporation, subsidiary, division, or other device, shall have a continuing
18 duty to:

19 A. Take such steps as are necessary to transfer to the territory of the United
20 States of America all documents and assets that are located outside of such territory
21 and are held by or for each Defendant or are under each Defendants' direct or indirect
22 control, jointly, severally, or individually. In the case of any liquid assets held in
23 foreign countries, each Defendant shall transfer such assets to one domestic account
24 in California, titled in that Defendant's name and designated prior to any transfer by
25 written notice to the Commission, such written notice to state the amount of the
26 transfer and identify the domestic account by financial institution, title holder and
27 account number;

28 B. Provide the Plaintiff with a full accounting of all documents and assets
that are located outside of the territory of the United States of America and are held

1 by or for each Defendant or are under Defendants' direct or indirect control, jointly,
2 severally, or individually;

3 C. Hold and retain all transferred documents and assets and prevent any
4 transfer, disposition, or dissipation whatsoever of any such assets or funds; and

5 D. Shall, to the extent not already provided pursuant to the Temporary
6 Restraining Order, provide the Plaintiff access to each Defendants' records and
7 documents held by financial institutions outside the territorial United States, by
8 signing the Consent to Release of Financial Records attached to the Temporary
9 Restraining Order as Attachment A.

10 VI. INTERFERENCE WITH REPATRIATION

11 **IT IS FURTHER ORDERED** that Defendants are hereby preliminarily
12 restrained and enjoined from taking any action, directly or indirectly, which may
13 result in the encumbrance or dissipation of foreign assets, or in the hindrance of the
14 repatriation required by the preceding Paragraph of this Order, including but not
15 limited to:

16 A. Sending any statement, letter, fax, e-mail or wire transmission,
17 telephoning or engaging in any other act, directly or indirectly, that results in a
18 determination by a foreign trustee or other entity that a "duress" event has occurred
19 under the terms of a foreign trust agreement until such time that all assets have been
20 fully repatriated pursuant to the preceding Paragraph of this Order; and

21 B. Notifying any trustee, protector or other agent of any foreign trust or
22 other related entities of either the existence of this Order, or of the fact that
23 repatriation is required pursuant to a Court Order, until such time that all assets have
24 been fully repatriated pursuant to the preceding Paragraph of this Order.

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1 **VII. FINANCIAL STATEMENTS**

2 **IT IS FURTHER ORDERED** that each Defendant

3 A. Shall, to the extent not already provided pursuant to the Temporary
4 Restraining Order, immediately prepare and deliver to counsel for Plaintiff, as
5 provided in Paragraph XV of this Order, completed financial statements on the forms
6 attached to the Temporary Restraining Order as Attachments B and C, for themselves
7 individually, and for each business entity under which each Defendant conducts
8 business, or of which each Defendant is an officer, and for each trust of which each
9 Defendant is a trustee. The financial statements shall be accurate as of the date of
10 entry of the Temporary Restraining Order;

11 B. Shall have the continuing duty immediately to prepare and deliver to
12 counsel for Plaintiff, as provided in Paragraph XV of this Order, updated versions of
13 such financial statements reflecting any material change to any such financial
14 statement; and

15 C. Such financial statements and such updated versions of such financial
16 statements shall include a full accounting of all assets and documents that are located
17 inside or outside of the territory of the United States of America and are held by or
18 for each Defendant or are under each Defendants' direct or indirect control, jointly,
19 severally, or individually.

20 **VIII. CONSUMER CREDIT REPORTS**

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

24 **IX. PLAINTIFF'S ACCESS TO BUSINESS RECORDS**

25 **IT IS FURTHER ORDERED** that Defendants shall, to the extent not already
26 done so pursuant to the Temporary Restraining Order, allow Plaintiff's
27 representatives, agents, and assistants access to all of Defendants' business records to
28 inspect and copy documents. Accordingly, to the extent not already done so pursuant
to the Temporary Restraining Order, Defendants shall immediately:

1 A. Produce to Plaintiff for inspection, inventory and/or copying, at the
2 FTC's Western Regional Office located at 10877 Wilshire Blvd., Ste. 700, Los
3 Angeles, CA 90024, or at another location designated by Plaintiff, all materials
4 related or referring, directly or indirectly, to Defendants' offer, sale, or provision of
5 their Work-At-Home Opportunity and/or any materials, information, products or data
6 related thereto, including, but not limited to, consumer identification or financial
7 information obtained through or as a result of email solicitations, computers,
8 computerized files, storage media (including, but not limited to, floppy disks, hard
9 drives, cd-roms, zip disks, punch cards, magnetic tape, backup tapes and computer
10 chips) on which information has been saved, any and all equipment needed to read
11 any such material, contracts, accounting data, correspondence (including, but not
12 limited to, electronic correspondence), advertisements (including, but not limited to,
13 advertisements placed on the World Wide Web), USENET Newsgroup postings,
14 World Wide Web pages, books, written or printed records, handwritten notes, receipt
15 books, ledgers, personal and business canceled checks and check registers, bank
16 statements, appointment books, copies of federal, state or local business or personal
17 income or property tax returns, 1099 forms, and other documents or records of any
18 kind that relate to Defendants' business practices; and

19 B. Produce to Plaintiff for inspection, inventory and/or copying, at the
20 FTC's Western Regional Office located at 10877 Wilshire Blvd., Ste. 700, Los
21 Angeles, CA 90024, or at another location designated by Plaintiff, all computers and
22 data in whatever form, used by Defendants, in whole or in part, relating to
23 Defendants' business practices.

24 [The Commission shall return materials produced by Defendants pursuant to
25 this Paragraph within five (5) business days of completing said inventory and
26 copying.

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1 and employees; and (4) a detailed description of the business entity's intended
2 activities.

3 **XII. NON-DISCLOSURE OF CONSUMER LISTS**

4 **IT IS FURTHER ORDERED** that Defendants are preliminarily restrained
5 and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the
6 name, date of birth, address, telephone number, credit card number, bank account
7 number, email address, or other identifying information of any person who submitted
8 such information to Defendants at any time prior to entry of this Order, in connection
9 with the advertising, promotion, telemarketing, offering for sale, or sale of any
10 product or service in or affecting commerce, provided, however, that Defendants may
11 disclose such identifying information to a law enforcement agency, or as required by
12 any law, regulation or court order.

13 **XIII. WITHHOLDING OF MAIL SENT TO** 14 **COMMERCIAL MAIL RECEIVING AGENCIES**

15 **IT IS FURTHER ORDERED** that all commercial mail receiving agencies
16 ("CMRAs") where Defendants maintain accounts and who receive actual notice of
17 this Order by personal service or otherwise, shall, for the duration of this Order, retain
18 and forward by overnight delivery to Plaintiff, at the address designated in Paragraph
19 XV below, all mail received at the CMRA that is addressed to Defendants.

20 **XIV. SERVICE OF ORDER**

21 **IT IS FURTHER ORDERED** that copies of this Order may be served by any
22 means, including facsimile transmission, upon any financial institution or other entity
23 or person that may have possession, custody, or control of any documents or assets of
24 any Defendant, or that may otherwise be subject to any Paragraph of this Order.
25 Service upon any branch or office of any financial institution shall effect service upon
26 the entire financial institution. Pursuant to Fed. R. Civ. P. 4(c)(2), this Order and any
27 subpoenas issued during the pendency of this Order may be served by agents or
28 attorneys of the Commission.

1 subpoenas issued during the pendency of this Order may be served by agents or
2 attorneys of the Commission.

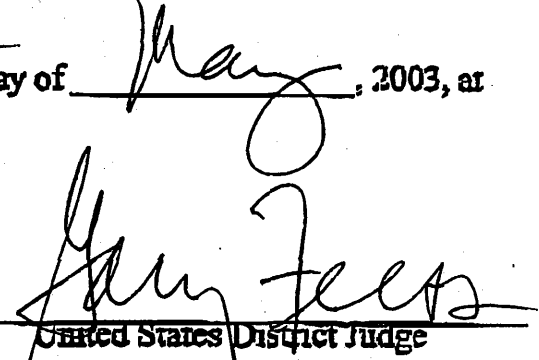
3 **XV. SERVICE UPON PLAINTIFF**


4 **IT IS FURTHER ORDERED**, with regard to any correspondence or
5 pleadings related to this Order, service on the Commission shall be performed by
6 overnight delivery to the attention of Michael Davis, Division of Marketing Practices,
7 Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room H-238,
8 Washington, DC 20580, (202) 326-2458, or by facsimile transmission to (202) 326-
9 3395.


10 **XVI. RETENTION OF JURISDICTION**

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

13
14 **IT IS SO ORDERED**, this 28th day of May, 2003, at
15 4:55 p.m.


United States District Judge

21 It is so stipulated:
22 
23 Dmitry Gurovich
24 Attorney for Defendants Irene Herrera,
25 James Zezula and Vincent Zezula
26 Gurovich & Associates
16161 Ventura Blvd., Suite 212
Encino, CA 91436
(818) 205-1555

21 It is so stipulated:
22 
23 Michael J. Davis
24 Colleen B. Robbins
25 Attorneys for Plaintiff
26 Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
(202) 326-2458

27 Dated: 5/28/03

27 Dated: 5-28-03

28