

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil No. 04 C 4694
)	
v.)	Judge Kennelly
)	
4049705 CANADA INC., a corporation, d/b/a)	Magistrate Judge Mason
PINACLE, <i>et al.</i> ,)	
)	
Defendants.)	
)	

CONTEMPT ORDER

Plaintiff, Federal Trade Commission (“FTC” or “Commission”) filed on November 10, 2004, its Second Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt, alleging that defendants had violated Section II of the Preliminary Injunction with Asset Freeze and Other Equitable Relief entered in this case on September 9, 2004 (“Preliminary Injunction”), when they transferred five real properties located in Welland, Ontario, Canada to 1609685 Ontario Limited on October 22, 2004, and when 1609685 Ontario Limited subsequently listed the five properties for sale to the general public. On November 17, 2004, this Court granted the order to show cause and ordered defendants to appear on Monday, November 22, 2004, at 9:30 a.m. to show cause why they should not be held in civil contempt for violating the Preliminary Injunction. Defendants failed to personally appear, and their counsel offered no defense to the contempt charge at the November 22, 2004 contempt hearing.

WHEREFORE, the Court having considered the Commission’s motion and the declarations and exhibits supporting that motion, and being fully advised in the premises, hereby

ORDERS, ADJUDGES, AND DECREES as follows:

FINDINGS

The Commission has shown the following facts by clear and convincing evidence:

1. As of the date the Preliminary Injunction was entered, defendants owned or controlled the following five real properties in Welland, Ontario, Canada: 30 Jackson Court West, 185 Denistoun Street Unit 54, 185 Denistoun Street Unit 107, 91-93 East Main Street, and 78 Jackson Court West;
2. On or about October 22, 2004, defendants or their agent transferred all five properties to 1609685 Ontario Limited in violation of Section II.A.1.b. of the Preliminary Injunction; and
3. 1609685 Ontario Limited then began listing the properties for sale to the general public through listing agent Veronica Robins Binka of the Royal LePage Real Estate Services Ltd. in Welland, Ontario, Canada, and has obtained contracts to sell three of the properties, which are scheduled to close on or about November 30, 2004.

On the basis of these findings and the additional findings made in open Court on November 22, 2004, defendants 4049705 Canada Inc., 3782484 Canada Inc., and Terrence Croteau are found to be in civil contempt for violating the terms of this Court's Preliminary Injunction.

ORDER

IT IS THEREFORE ORDERED as follows:

1. Defendants are hereby directed to take any and all steps necessary to prevent any further transfer or sale of any real properties subject to the Preliminary Injunction, including, but

not limited to, the following real properties located in Welland, Ontario, Canada: 30 Jackson Court West, 185 Denistoun Street Unit 54, 185 Denistoun Street Unit 107, 91-93 East Main Street, and 78 Jackson Court West;

2. To the extent that any of the above real properties or any other real property subject to the Preliminary Injunction is transferred or sold, the entire proceeds of any such sale or transfer shall be deposited immediately into the Registry of the United States District Court for the Northern District of Illinois, Eastern Division;

3. Defendants, jointly and severally, are hereby fined a total of \$5,000.00 per day beginning on the day this Contempt Order is entered and continuing thereafter until all defendants bring themselves into compliance with Section II of the Preliminary Injunction and all proceeds from the sale or transfer of any real property subject to the Preliminary Injunction are deposited into the Registry of this Court. The fine imposed herein shall be payable to the United States Treasury, care of the Federal Trade Commission; and

4. In order to coerce defendants' compliance with the terms of the Preliminary Injunction and with this Contempt Order, defendant Terrence Croteau shall be arrested by the United States Marshal and upon his arrest, shall be confined in the Chicago Metropolitan Correctional Center in Chicago, Illinois until such time as he brings defendants into compliance

with Section II of the Preliminary Injunction and with the terms of this Contempt Order,
including the payment of the fine imposed herein.

IT IS SO ORDERED this 23rd day of November, 2004.



Honorable Matthew F. Kennelly
United States District Judge