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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

MAY 13 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DPS ACTIVITY PUBLISHING, LTD, a
Canadian corporation, also doing business as
HEALING HANDS BUSY BOOK,

DAVID P. SUGGITT, individually and as an
officer and director of DPS Activity Publishing,
Ltd.,

TABEA SUGGITT, individually and as a director
of DPS Activity Publishing, Ltd, and

MARY ANN WILSON-RENNICK, also known
as MARY ANN WILSON, individually and as an
officer and/or employee of DPS Activity
Publishing, Ltd,

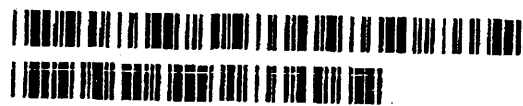
Defendants

CIVIL ACTION NO

C 03 - - 078

(PROPOSED)

TEMPORARY RESTRAINING
ORDER; ORDER
WITHHOLDING MAIL SENT
TO COMMERCIAL MAIL
RECEIVING AGENCIES;
ORDER PERMITTING
EXPEDITED DISCOVERY;
AND ORDER TO SHOW
CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE



CV 03-01078 #00000006

Plaintiff Federal Trade Commission ("Commission" or "FTC"), pursuant to Sections
13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U S C § 53(b), has filed a
Complaint for injunctive and other relief, including consumer redress, and applied *ex parte* for a
temporary restraining order, an order to withhold mail sent to defendants at commercial mail
receiving agencies, an order permitting limited expedited discovery, and an order to show cause

ORIGINAL

6

1 why a preliminary injunction should not issue pursuant to Rule 65 of the Federal Rules of Civil
 2 Procedure

4 FINDINGS OF FACT

5 This Court has considered plaintiff's Complaint, Application for *Ex Parte* Temporary
 6 Restraining Order, Memorandum of Points and Authorities, Declarations and Exhibits, and all
 7 other papers filed herein. It appears to the satisfaction of the Court that:

- 8 (a) This Court has jurisdiction over the subject matter of this case, and there is good
 9 cause to believe that the Court will have jurisdiction over the parties
- 10 (b) Venue lies properly with this Court.
- 11 (c) There is good cause to believe that defendants DPS Activity Publishing, Ltd.,
 12 doing business as Healing Hands Busy Book, David P. Suggitt, Tabea Suggitt, and
 13 Mary Ann Wilson-Rennick, also known as Mary Ann Wilson, have engaged in
 14 and are likely to engage in acts and practices that violate Section 5(a) of the FTC
 15 Act, 15 U S C § 45(a), and that the Commission is likely to prevail on the merits
 16 of this action
- 17 (d) There is good cause to believe that immediate and irreparable harm will result
 18 from defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U S C
 19 § 45(a), absent the entry of this Temporary Restraining Order ("Order")
- 20 (e) There is thus good cause for issuing this Order without prior notice to defendants
 21 of the Commission's application, pursuant to Federal Rule of Civil Procedure
 22 65(b)
- 23 (f) Weighing the equities and considering the Commission's likelihood of success in
 24 its causes of action, this Order is in the public interest

25 ORDER

26 Definitions

- 27 (1) "Defendants" means DPS Activity Publishing, Ltd., doing business as Healing Hands
 28 Busy Book, David P. Suggitt, Tabea Suggitt, and Mary Ann Wilson-Rennick, also known

1 as Mary Ann Wilson, and each of them, by whatever names each might be known, as well
 2 as their successors, assigns, officers, agents, directors, servants, employees, salespersons,
 3 independent contractors, attorneys, corporations, subsidiaries, affiliates, all other persons
 4 or entities directly or indirectly under their control or under common control with them,
 5 and all other persons or entities in active concert or participation with them who receive
 6 actual notice of this Order by personal service or otherwise, whether acting directly or
 7 through any corporation, subsidiary, division or other device

8 (2) "Document" is synonymous in meaning and equal in scope to the usage of the term in
 9 Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
 10 photographs, audio and video recordings, computer records, and other data compilations
 11 from which information can be obtained and translated, if necessary, through detection
 12 devices into reasonably usable form. A draft or non-identical copy is a separate document
 13 within the meaning of the term

14 (3) "Person" means any individual, group, unincorporated association, limited or general
 15 partnership, corporation or other business entity

17 I. PROHIBITED BUSINESS ACTIVITIES

18 IT IS THEREFORE ORDERED that defendants are hereby temporarily restrained and
 19 enjoined from

20 A Misrepresenting or assisting others in misrepresenting, either orally or in writing,
 21 expressly or by implication, any material fact in connection with the sale of defendants'
 22 children's activity books, including, but not limited to, the following

- 23 1 That defendants are affiliated with or authorized by one or more local
 24 hospitals in the communities where they solicit donations for the purchase
 25 of their children's activity books to undertake such solicitations,
- 26 2. That the children at one or more hospitals in the communities where
 27 defendants solicit donations for the purchase of their children's activity
 28 books will receive those books purchased by local businesses, and

1 B. Misrepresenting or assisting others in misrepresenting, either orally or in writing,
 2 expressly or by implication, any material fact in connection with the solicitation of
 3 donations for the purchase of any product or service

4
 5 **II. WITHHOLDING OF MAIL SENT TO
 COMMERCIAL MAIL RECEIVING AGENCIES**

6 **IT IS FURTHER ORDERED** that all Commercial Mail Receiving Agencies ("CMRA")
 7 where defendants maintain accounts or, subsequent to entry of this Order, open new accounts,
 8 including those at 5956 Sherry Lane, #1000, Dallas, Texas 75225, 7323 11th Avenue, NW,
 9 Seattle, Washington 98117; and 401 N Michigan Avenue, Suite 1200, Chicago, Illinois 6061,
 10 shall, for the duration of this Order, retain and forward to plaintiff, at the address designated in
 11 Section XII below, all mail received at the CMRA that is addressed to any corporate defendant,
 12 including DPS Activity Publishing, Ltd, and/or addressed to any other name under which the
 13 defendants are doing business, including Healing Hands Busy Book

14
 15 **III. FINANCIAL REPORTS**

16 **IT IS FURTHER ORDERED** that

17 **A** Defendants David P Suggitt, Tabea Suggitt, and Mary Ann Wilson-Rennick shall,
 18 within ^{5 days} ~~48 hours~~ after entry of this Order, prepare and deliver to counsel for the Commission a
 19 completed financial statement on the form captioned "Form Re Financial Statement for
 20 Individual Defendant," which is appended to this Order as Attachment A. This financial
 21 statement shall be accurate as of the date of entry of this Order, and

22 **B** Defendants David P Suggitt and Tabea Suggitt shall, within ^{5 days} ~~48 hours~~ after entry
 23 of this Order, prepare and deliver to counsel for the Commission a completed financial statement
 24 on the form captioned "Form Re Financial Statement for Business Defendant," which also is
 25 appended to this Order as Attachment B, and shall include one such form for defendant DPS
 26 Activity Publishing, Ltd, and any other business entities owned, controlled or managed by them
 27 These financial statements shall be accurate as of the date of entry of this Order

IV. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that 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 documents that relate to the business practices or business or personal finances of defendants, to the business practices or finances of entities directly or indirectly under the control of defendants, or to the business practices or finances of entities directly or indirectly under common control with any other defendant

V. RECORD KEEPING/BUSINESS OPERATIONS

IT IS FURTHER ORDERED that defendants are hereby temporarily restrained and enjoined from:

A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of money, beginning as of the time of effective service of this Order,

B Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipt ledgers, cash disbursement 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,

C Destroying, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, 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, in their possession, custody or control;

D Creating, operating or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing the Commission with a written statement disclosing (1) the name of the business

1 entity; (2) the address and telephone number of the business entity, (3) the names of the business
2 entity's officers, directors, principals, managers, and employees, and (4) a detailed description of
3 the business entity's intended activities, and

4 E Opening or maintaining any account or location for receiving mail for any
5 defendant at any commercial mail receiving agency, without first providing the Commission with
6 a written statement disclosing (1) the name of the commercial mail receiving agency where the
7 account or mail receiving location is situated, and (2) the address and telephone number of the
8 commercial mail receiving agency where the account or mail receiving location is situated
9

10 VI. REQUIRED DISTRIBUTION OF ORDER

11 IT IS FURTHER ORDERED that named defendants shall immediately provide a copy
12 of this Order to each affiliate, partner, division, sales entity, successor, assign, employee,
13 independent contractor, agent, attorney, and representative of named defendants and shall, within
14 ten (10) days from the date of entry of this Order, serve upon counsel for the Commission a
15 sworn statement that they have complied with this provision of the Order, which statement shall
16 include the names and addresses of each such person or entity who received a copy of the Order
17

18 VII. SERVICE OF ORDER

19 IT IS FURTHER ORDERED that

20 A. Plaintiff's agents or employees may serve this Order upon any CMRA, or other entity
21 or person that may have possession, custody, control or knowledge of any documents or assets of
22 any defendant, or any other entity or person that may be otherwise subject to any provision of this
23 Order, by serving a copy at any office or branch by any means, including facsimile transmission,
24 and

25 B For purposes of service on anyone in possession of records, mail, assets, property or
26 property rights, actual notice of this Order shall be deemed complete upon notification by any
27 means including, but not limited to, notice from service by facsimile transmission of this Order.
28

VIII. CONSUMER CREDIT REPORT

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 served with this Order shall promptly furnish consumer reports concerning defendants David P. Suggitt, Tabea Suggitt, and Mary Ann Wilson-Renmick to counsel for the Commission.

IX. EXPEDITED AND THIRD PARTY DISCOVERY

IT IS FURTHER ORDERED that pursuant to Federal Rules of Civil Procedure Rules 30(a), 31(a), 34, and 45, plaintiff is granted leave to, at any time after service of this Order:

A. Take the deposition, including depositions upon 48 hours' written notice, of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of assets of defendants or their affiliates or subsidiaries, the nature and location of documents reflecting the business transactions of defendants, the whereabouts of defendants, and the applicability of any evidentiary privileges to this action. 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 paragraph. Any such depositions taken pursuant to this paragraph shall not be counted toward the ten-deposition limit 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 paragraph, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on five (5) days' notice, from any person, whether or not a party, relating to the nature, status or extent of defendants' assets, or of their affiliates or subsidiaries; the location of documents reflecting the business transactions of defendants, the whereabouts of defendants, and the applicability of any evidentiary privileges to this action, provided that 24 hours' notice shall be deemed sufficient for the production of any such documents that are maintained or stored as electronic data.

X. DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that this Order shall expire on May 30, 2003, unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is further extended by the Court for good cause shown or with the consent of the parties

XI. ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED pursuant to Federal Rule of Civil Procedure 65(b), that defendants shall appear before this Court, on the 30th day of May, 2003, at 11 o'clock a m, to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U S C § 45(a), and imposing such additional relief as may be appropriate.

XII. SERVICE OF DOCUMENTS AND EVIDENCE

IT IS FURTHER ORDERED that defendants, in responding to this Court's Order to Show Cause, shall serve all memoranda, affidavits, and other evidence on which they intend to rely not later than 4 00 p m (PST) of the fourth day prior to the preliminary injunction hearing set in this matter. Service on the Commission shall be performed by personal delivery, or confirmed facsimile delivery, to Nadine Samter, Esq, at the following address: Federal Trade Commission, 915 Second Ave, Suite 2896, Seattle, WA 98174, (206) 220-6366 (fax number). The Commission may serve and file a supplemental memorandum of points and authorities based on evidence discovered subsequent to the filing of its Complaint by no later than 4 00 p m (PST) of the fourth day prior to the preliminary injunction hearing, and may serve and file a reply to defendants' opposition by no later than 4 00 p.m (PST) on the day prior to the preliminary injunction hearing.

XIII. EXAMINATION OF WITNESSES

IT IS FURTHER ORDERED that there will be no direct examination of witnesses at the preliminary injunction hearing in this matter, unless specifically ordered by this Court. In the event this Court permits direct examination of witnesses at the preliminary injunction hearing in this matter, the parties shall exchange and file with the Court the names of those witnesses to testify at the hearing and a summary of the substance of the witnesses' testimony to be proffered at the hearing no later than four (4) business days prior to the scheduled hearing

XIV. RETENTION OF 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)

SO ORDERED, this 13th day of May, 2003, at 2:40p m

M. S. Slanik
 United States District Judge

Presented by

[Signature]

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