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PART I

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00 CIV. 7422

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

VERITY INTERNATIONAL, LTD.,

an Irish business entity;

INTEGRETEL, INC.,

a California corporation;

EBILLIT, INC., subsidiary of Integretel, Inc.; and

ROBERT GREEN and

MARILYN SHEIN,

individually and as owners of

Verity International, Ltd.,

Defendants.

Civ. No.

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

Plaintiff, the Federal Trade Commission ("Commission"), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and having moved for an *ex parte* Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the complaint, declarations,

exhibits, and memorandum of law filed in support thereof, and now being advised in the premises finds that:

1. This Court has jurisdiction of the subject matter of this case and there is good cause to believe it will have jurisdiction of all parties hereto;

2. There is good cause to believe that defendants Verity International, Ltd., Integretel, Inc., eBillit, Inc., Robert Green and Marilyn Shein have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Commission is therefore likely to prevail on the merits of this action;

3. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary redress will occur from the sale, transfer, or other disposition or concealment by one or more of the defendants of their assets or corporate records unless the defendants are immediately restrained and enjoined by Order of this Court. Thus there is good cause for relieving the Commission of the duty to provide defendants with prior notice of the Commission's motion;

4. Weighing the equities and considering the Commission's likelihood of ultimate success, a temporary restraining order with asset freeze and other equitable relief is in the public interest; and

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

Definitions

For purposes of this temporary restraining order, the following definitions shall apply:

1. “Defendants” means Verity International, Ltd., Integretel, Inc., eBillit, Inc., Robert Green and Marilyn Shein, and each of them, and their successors, assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device.
2. “Verity defendants” means Verity International, Ltd., Robert Green and Marilyn Shein.
3. “Local Exchange Carrier” or “LEC” means the local telephone company from which a line subscriber receives his or her telephone bill.
4. “Line subscriber” means an individual or entity who has arranged with a LEC to obtain local telephone service provided through an assigned telephone number, and to be billed for such service on a monthly (or other periodic) basis.
5. “Long distance provider” means any entity that offers or provides line subscribers with the capability to complete telephone calls outside of the service area of their LEC.
5. “Videotext services” means visual (and possibly audio) information or entertainment services offered over the Internet through individual web sites.
6. “Audiotext services” means information or entertainment services offered over the telephone through any dialing pattern.

Conduct Prohibitions

I.

IT IS THEREFORE ORDERED that, in connection with the billing and collection for videotext services or audiotext services, the defendants are hereby temporarily restrained and

enjoined from making, directly or through any intermediary, expressly or by implication, orally or in writing, any misrepresentation of material fact, including but not limited to:

- A. Any misrepresentation that a line subscriber must pay for the purchase of any videotext services or audiotext services that the line subscriber did not expressly authorize;
- B. Any misrepresentation that a line subscriber is obligated to pay any charge on the basis that videotext services or audiotext services were purchased or accessed from the line subscriber's telephone line;
- C. Any misrepresentation that a purchase of videotext services or audiotext services has been authorized by a line subscriber;
- D. Any misrepresentation in the description of the service for which the line subscriber is being billed, such as the destination location of any long distance call being billed; or
- E. Any misrepresentation of the amount owed by the line subscriber for the services actually rendered.

II.

IT IS FURTHER ORDERED that the defendants are hereby temporarily restrained and enjoined from billing any line subscriber or causing any line subscriber to be billed, or collecting or attempting to collect payment, directly or indirectly, from any line subscriber, for any videotext services or audiotext services without the express verifiable authorization from the line subscriber that he or she accepts or authorizes the purchase of such services.

Asset Freeze

III.

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

- A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any funds, property, accounts, contracts, shares of stock, or other assets, wherever located, that are:
1. Owned or controlled by any Verity defendant, in whole or in part; or
 2. In the actual or constructive possession of any Verity defendant; or
 3. Owned, controlled by, or in the actual constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Verity defendant, including, but not limited to, any assets held by or for any defendant at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, or with any LEC, common carrier or other telecommunications company; and
- B. Opening or causing to be opened any safe deposit boxes titled in the name of any Verity defendant, or subject to access by any Verity defendant.

IV.

IT IS FURTHER ORDERED that defendants Integretel, Inc. and eBillit, Inc. are hereby temporarily restrained and enjoined from transferring, converting, encumbering, selling,

concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any funds, accounts, or other assets, wherever located, that have been obtained from any transaction involving or on behalf of a Verity defendant, or any person in active concert or participation with any Verity defendant, including but not limited to Automatic Communications Limited.

V.

IT IS FURTHER ORDERED that, pending determination of the plaintiff's request for a preliminary injunction, any financial or brokerage institution, business entity, or person that holds, controls, or maintains custody of any account or asset of any Verity defendant, or has held, controlled, or maintained custody of any account or asset of any Verity defendant at any time since January 1, 1999, shall:

- A. Prohibit the Verity defendants from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any such asset except as directed by further order of the Court;
- B. Deny the Verity defendants access to any safe deposit box that is:
 - 1. Titled in the name of any Verity defendant, either individually or jointly;
or
 - 2. Otherwise subject to access by any Verity defendant;
- C. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. The identification number of each such account or asset titled in the name, individually or jointly, of any of the defendants, or held on behalf of, or for the benefit of, any of the defendants;
 2. The balance of each such account, or a description of the nature and value of such 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, 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 such account or other asset was remitted; and
 3. The identification 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; and
- D. Upon the request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to such account or asset, 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. Any such financial institution, account custodian, or other aforementioned entity may arrange for the Commission to obtain copies of any such records which the Commission seeks, provided that such institution or custodian may charge a reasonable fee not to exceed fifteen cents per page copied.

VI.

IT IS FURTHER ORDERED that, pending determination of the plaintiff's request for a preliminary injunction, any LEC or long distance provider that holds, controls, or maintains custody of any account or asset of any Verity defendant, or any person in active concert or participation with any Verity defendant, including but not limited to Automatic Communications Limited, or has held, controlled, or maintained custody of any such account or asset at any time since January 1, 1999, shall:

- A. Prohibit the Verity defendants from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any such asset except as directed by further order of the Court;
- B. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth, for any services provided on behalf of the Verity defendants, or any person in active concert or participation with the Verity defendants, including but not limited to Automatic Communications Limited:
 - 1. The number of consumers billed per month;
 - 2. The number of telephone calls completed each month;
 - 3. The number of minutes billed to consumers each month;
 - 4. The total charges billed to consumers each month;
 - 5. The number of telephone calls adjusted each month;
 - 6. The number of minutes adjusted each month; and
 - 7. The total amount of charges adjusted each month; and

- C. Upon the request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to such account or asset, including but not limited to copies of contracts, correspondence with the Verity defendants, and correspondence from consumers concerning the services provided on behalf of the Verity defendants. Any such LEC or long distance provider may arrange for the Commission to obtain copies of any such records which the Commission seeks, provided that such LEC or long distance provider may charge a reasonable fee not to exceed fifteen cents per page copied.

Repatriation of Assets Located in Foreign Countries

VII.

IT IS FURTHER ORDERED that the defendants, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, shall:

- A. Within seven (7) business days following the service of this Order, take such steps as are necessary to transfer to the territory of the United States of America all of the Verity defendants' assets obtained as a result of the transactions subject to the Commission's complaint in this matter, that are located outside of such territory; and
- B. Hold and retain all such transferred assets and prevent any transfer, disposition or dissipation whatsoever of any such assets in accordance with Paragraph III of this Order; and

- C. Provide plaintiff access to the Verity defendants' records and documents held by financial institutions outside the territorial United States, by signing the Consent to Release of Financial Records attached hereto as Attachment A.

Record Keeping

VIII.

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

- A. Failing to create and maintain books, records, accounts, and data which, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of monies; and
- B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, discs, or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, 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 which relate to their business practices or business or personal finances from January 1, 1999 to the present time.

Preparation for Preliminary Injunction Hearing

IX.

IT IS FURTHER ORDERED that, at least ~~(3)~~ three days prior to the preliminary injunction hearing in this matter, and in no event later than ten (10) business days after entry of this Order, each Verity defendant shall provide the Commission with a completed financial statement, on the forms attached hereto as Attachments B and C, accurate as of the date of service of this Order upon such defendant.

X.

IT IS FURTHER ORDERED that, at least two (2) business days prior to the preliminary injunction hearing in this matter, all parties shall file with this Court and serve on all opposing parties, a witness list which shall include the name, address, and telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit revealing the substance of such witness' expected testimony.

XI.

IT IS FURTHER ORDERED that parties shall serve affidavits, memoranda, and other evidence on which they intend to rely not less than ~~two (2)~~ ^{one (1)} business days before the preliminary injunction hearing in this matter. Defendants shall serve copies of all such materials on counsel for the Commission, prior to 4:45 p.m. of that day, by delivery to the following: Lawrence Hodapp, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Room 238, Washington, D.C. 20580.

XII.

IT IS FURTHER ORDERED that agents of the Commission may serve copies of this Order upon any financial institution or person or entity that may be in possession of any assets, property, or property rights of defendants or that may be subject to any provision of this Order.

XIII.

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

XIV.

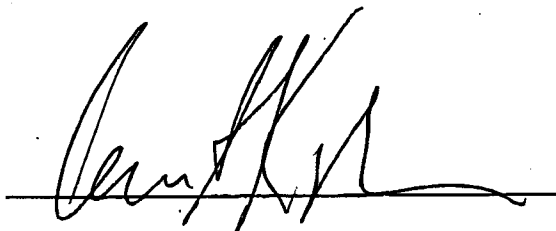
IT IS FURTHER ORDERED that ~~each of the~~ ^{shows cause} defendants shall ~~appear~~ before this Court on the 4th day of Oct., 2000, at 2:15 o'clock p.m. at the United States District Courthouse for the Southern District of New York, 500 Pearl Street, New York, NY, Room (21), to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint, against said defendants enjoining them from further violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

XV.

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

IT IS FURTHER ORDERED that this order and the papers upon which it is based shall be served by

SO ORDERED, this 22 day of Oct, 2000, at 11:50 a.m.



United States District Judge

~~FAA~~

6 pm today