

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	Case No. 04C 6901
v.)	
)	Judge William J. Hibbler
INTERNATIONAL RESEARCH AND)	
DEVELOPMENT CORPORATION OF)	Magistrate Judge Ian H. Levin
NEVADA, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**TEMPORARY RESTRAINING ORDER WITH ASSET PRESERVATION,
OTHER EQUITABLE RELIEF AND ORDER TO SHOW CAUSE
WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE AS TO
DEFENDANTS INTERNATIONAL RESEARCH AND
DEVELOPMENT CORPORATION OF NEVADA AND ANTHONY RENDA**

Plaintiff, Federal Trade Commission (“Commission” or “FTC”), having filed its Complaint for Injunctive and Other Equitable Relief in this matter, pursuant to Sections 13(b) and 19 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b and having moved for a Temporary Restraining Order with Equitable Relief (“TRO”), and an Order to Show Cause Why a Preliminary Injunction Should Not Issue 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 of such motion, and now being advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the parties;
2. Venue properly lies with this Court;

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts and practices that violate Section 5 of the FTC Act, 15 U.S.C. § 45, and that the Commission is likely to prevail on the merits of this action;

4. 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 restitution will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets or records unless Defendants are ordered to preserve assets. Therefore, there is good cause for the entry of the ancillary relief contained in this Order, including preserving the Defendants' assets and prohibiting the Defendants from destroying records;

5. Weighing the equities and considering the Plaintiff's likelihood of success, this Order is in the public interest; and

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

DEFINITIONS

1. **"Asset"** or **"Assets"** means any legal or equitable interest in, right to, or claim to, any real and/or personal property, including but limited to chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, funds, monies, shares of stock, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

2. **"Assisting others"** means: (1) performing customer service functions including, but not limited to, receiving or responding to consumer complaints; (2) providing names of, or

arranging for the provision of, names of potential customers; or (3) performing marketing services of any kind.

3. **“Competent and reliable scientific evidence”** means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

4. **“Customer”** means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by Defendants.

5. **“Defendant”** or **“Defendants”** means International Research and Development Corporation of Nevada and Anthony Renda, individually and d/b/a International Research & Development and/or IRD, and each of them, by whatever names each may be known.

6. **“Distributor”** shall mean any purchaser or other transferee of any covered product who acquires such product from any Defendant for resale and is entitled to or has received any commission or bonus in connection with the sale or distribution of any covered product.

7. **“Document”** is synonymous in meaning and equal in scope to the term, as defined in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of this term.

8. **“Financial Institution”** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

9. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

10. **“Means and instrumentalities”** shall mean any information, including but not necessarily limited to any advertising, labeling, or promotional materials, for use by Distributors in their marketing or sale of any covered product.

11. **“Person”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

12. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”).

I. PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE FTC ACT

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order, are hereby temporarily restrained and enjoined from making, or assisting others in making, expressly or by implication, any false or misleading oral or written statement or representation in connection with the marketing, advertising, promotion, offering for sale, sale or provision of any fuel saving or emissions decreasing devices, or any other products or services, including, but not limited to:

- A. Representing that “FuelMAX,” “Super FuelMAX,” or any other substantially similar product, causes a substantial increase in gas mileage;
- B. Representing that “FuelMAX,” “Super FuelMAX,” or any other substantially similar product, causes a substantial reduction in emissions;
- C. Making any representation about the performance, efficacy, or safety of any product unless, at the time of making such representation, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation;
- D. Misrepresenting any other fact material to a consumer’s decision to purchase any product; and
- E. Assisting others who violate any provision of Paragraphs A through D of this Section.

II. PROHIBITION AGAINST PROVIDING OTHERS WITH THE MEANS AND INSTRUMENTALITIES TO VIOLATE THE FTC ACT

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order, are hereby temporarily restrained and enjoined from providing to others the means and instrumentalities with which to make, expressly or by implication, orally or in writing, any false or misleading statement or representation of material fact, including, but not limited to the representations contained in Section I.A through I.D above, in connection with the marketing, advertising, promotion, offering for sale, sale or provision of any fuel saving or emissions decreasing devices, or any other products or services.

III. ASSET PRESERVATION

A. **IT IS FURTHER ORDERED** that Defendants are temporarily enjoined from directly or indirectly selling, transferring, alienating, liquidating, encumbering, pledging, loaning, assigning, concealing, dissipating, converting, withdrawing or making any other disposition of any assets or any interest therein, wherever located, including any assets outside the territorial United States, other than those that are actual, ordinary, and necessary business or living expenses that Defendants reasonably incur.

B. **IT IS FURTHER ORDERED** that the assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order.

C. **NOTWITHSTANDING** the asset preservation provisions of Paragraphs A and B of this Section, Defendants may pay amounts in excess of five thousand dollars (\$5,000) only after providing counsel for the Commission written notice via facsimile or e-mail at least five (5) days prior to such payment, or upon prior approval by the Court. *Provided, however*, upon good cause shown, the Court may, in its discretion raise the amount subject to the above notice provision to ten thousand dollars (\$10,000). *Provided further* that Defendants collectively may pay a total of twenty-five thousand dollars (\$25,000) as a retainer to legal counsel in this matter without providing notice to the Commission. Any payments thereafter to legal counsel shall be subject to the notice provision in this Section.

IV. RECORD KEEPING/MAINTAINING BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order, are hereby temporarily restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements 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; and

B. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, contracts, agreements, customer files, customer lists, customer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, training material, sales presentations, documents evidencing or referring to Defendants' products or services, data, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, "verification" or "compliance" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, 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, including electronically-stored materials, that relate to the business practices or business or personal finances of Defendants or other entities directly or indirectly under the control of Defendants.

V. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each officer, agent, servant, employee, and attorney, and those persons in active concert or participation with them. Within ten (10) calendar days from the date of entry of this Order, each Defendant shall serve on Plaintiff an affidavit identifying the name, title, address, telephone

number, date of service, and manner of service of each person or entity Defendant served with a copy of this Order in compliance with this provision.

VI. SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail, personal or overnight delivery, or by U.S. Mail, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any entity or person that may have possession or control of any documents of Defendants, or that may be subject to any provision of this Order.

VII. CREDIT REPORTS

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 may furnish a consumer report concerning any Defendant to the FTC.

VIII. FINANCIAL REPORTS AND ACCOUNTING

IT IS FURTHER ORDERED that at least three (3) calendar days prior to the preliminary injunction hearing in this matter, and in no event later than twenty (20) calendar days after entry of this Order, each of the Defendants shall each provide to counsel for the FTC:

A. A completed financial statement accurate as of the date of entry of this Order, in the form provided as **Attachment A** for individuals and **Attachment B** for businesses, as the case may be, signed under penalty of perjury;

B. A complete and accurate list of Defendants' customers that purchased "FuelMax," "Super FuelMAX," or any other substantially similar products, including, if available, the

customer's name, address, electronic mail address, date of purchase, type of product purchased, and the amount paid for the purchase;

C. A detailed accounting of:

1. the names of all products advertised, marketed, promoted, offered for sale, distributed, or sold, by, for, or on behalf of each of the Defendants; and
2. gross revenues and net profits (in U.S. Dollars) obtained from the sale of each product identified in Subsection VIII.C.1. above, from inception of sales through the date of entry of this Order.

IX. CREATION OF OTHER BUSINESSES

IT IS FURTHER ORDERED that Defendants are hereby temporarily restrained and enjoined from creating, operating, or controlling any business entity, whether newly-formed or previously inactive, 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 entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

X. CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Steven M. Wernikoff, Esq.
Federal Trade Commission
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
(312) 960-5600 [facsimile]

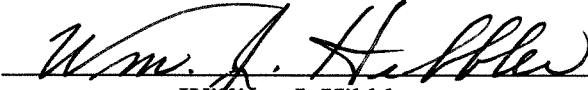
XI. DURATION OF THE TEMPORARY RESTRAINING ORDER AND SCHEDULE FOR PRELIMINARY INJUNCTION PROCEEDING

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on Monday, November 22, 2004, at 11:59 p.m. (United States Central Time), unless, within such time, for good cause shown, the Order is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time. The Court has set a status hearing for November 19, 2004 at 10 a.m. At that time, the Court will schedule a preliminary injunction hearing pursuant to the Commission's motion for an order to show cause why a preliminary injunction should not issue.

XII. RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 10th day of NOVEMBER, 2004, at 3:35 P.m.


William J. Hibbler
United States District Judge