

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 11 C 2487
)	
v.)	Judge Bucklo
)	
AMBERVINE MARKETING LLC,)	Magistrate Judge Schenkier
a Minnesota limited liability company, <i>et al.</i> ,)	
)	
Defendants.)	
)	

PLAINTIFF’S MOTION FOR A TEMPORARY RESTRAINING ORDER

Plaintiff, Federal Trade Commission (“FTC”), having filed its complaint in this matter seeking a permanent injunction and other equitable relief, including restitution for consumers injured by Defendants’ unlawful practices, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), moves this Court for a Temporary Restraining Order with Other Equitable Relief, and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue.¹ In support thereof, Plaintiff states:

1. Plaintiff seeks an Order:
 - A. Temporarily restraining Defendants from further violations of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, as alleged in the Complaint;
 - B. Temporarily restraining and enjoining Defendants from dissipating assets other than those that are actual, ordinary and necessary business and personal expenses that Defendants reasonably incur;

¹ Plaintiff’s proposed Temporary Restraining Order With Other Equitable Relief And Order To Show Cause Why A Preliminary Injunction Should Not Issue is attached to this motion.

C. Temporarily restraining and enjoining Defendants from destroying or concealing documents;

D. Requiring Defendants to complete financial statements and provide a detailed accounting;

E. Granting Plaintiff leave for expedited discovery; and

F. Requiring Defendants to show cause why this Court should not issue a preliminary injunction extending such temporary relief pending an adjudication on the merits.

2. This Court has full authority to grant the relief requested. A district court may issue injunctions to enjoin violations of the FTC Act. *See* 15 U.S.C. 53(b); *FTC v. Febre*, 128 F.3d 530, 534 (7th Cir. 1997); *FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1028 (7th Cir. 1988). To obtain a temporary restraining order, the FTC must merely demonstrate: (1) a likelihood of success on the merits; and (2) that the balance of the equities tips in its favor. *World Travel*, 861 F.2d at 1029. Courts in this district have repeatedly exercised their authority to grant TROs in similar FTC fraud actions.²

3. As explained in more detail in the FTC's memorandum and exhibits filed herewith in support of this Motion, the injunctive relief requested by the FTC is warranted in this case. Defendants are engaging in deceptive practices in violation of the FTC Act in connection

² *See, e.g., FTC v. Central Coast Nutraceuticals, Inc.*, 10 C 4931 (N.D. Ill. Aug. 5, 2010) (Norgle, J.) (entering *ex parte* TRO for false claims regarding acai berry supplements); *FTC v. Atkinson*, 08 C 5666 (N.D. Ill. Oct. 6, 2008) (Kendall, J.) (*ex parte* TRO and asset freeze for violations of FTC Act involving deceptive sale of pharmaceuticals and dietary supplements); *FTC v. Spear Systems, Inc.*, 07 C 5597 (N.D. Ill. Oct. 5, 2007) (Andersen, J.) (*ex parte* TRO and asset freeze for violations of FTC Act involving sale of dietary supplement); *FTC v. Sili Nutraceuticals, LLC*, 07 C 4541 (N.D. Ill. Aug. 13, 2007) (Kennelly, J.) (same); *FTC v. Harry*, 04 C 4790 (N.D. Ill. July 27, 2004) (Manning, J.) (same); *FTC v. AVS Marketing, Inc.*, 04 C 6915 (N.D. Ill. Oct. 27, 2004) (Moran, J.) (*ex parte* TRO and asset freeze for deceptive marketing of "Himalayan Diet" supplements).

with the advertising of acai berry weight loss products on websites crafted to look like legitimate news websites. Defendants' websites describe "study" results in which the featured products have caused weight loss of over 30 pounds in one month. These weight loss claims are false, and the websites are simply advertisements aimed at deceptively enticing consumers to purchase the products from third-party websites recommended by Defendant. Defendants' fake news websites have been viewed at least 240,000 times by consumers, and the deceptive conduct is ongoing.

WHEREFORE, Plaintiff Federal Trade Commission respectfully requests that the Court grant Plaintiff's Motion and enter the proposed Temporary Restraining Order With Asset Freeze And Other Equitable Relief.

Respectfully Submitted,

WILLARD K. TOM
General Counsel

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s/Guy G. Ward
Guy G. Ward
Federal Trade Commission
55 W. Monroe St., Suite 1825
Chicago, IL 60603
(312) 960-5612 [phone]
(312) 960-5600 [fax]
gward@ftc.gov

Attorney for Plaintiff
FEDERAL TRADE COMMISSION