

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

\_\_\_\_\_  
FEDERAL TRADE COMMISSION, )

Plaintiff, )

v. )

PHOENIX AVATAR, LLC doing business )  
as AVATAR NUTRITION, )

DJL, LLC, )

DANIEL L LIN )

Case No. 04C 2897

Judge Holderman

\_\_\_\_\_  
MARK M. SADEK, )

JAMES LIN, and )

CHRISTOPHER M. CHUNG )  
doing business as A I T HERBAL )  
MARKETING, )

Defendants. )

Magistrate Judge Schenkier

**PRELIMINARY INJUNCTION WITH ASSET FREEZE AND OTHER EQUITABLE  
RELIEF AS TO DEFENDANTS PHOENIX AVATAR, LLC, AND DJL, LLC**

Plaintiff, Federal Trade Commission ("Commission" or "FTC"), pursuant to Sections

1303 and 1305 of the Federal Trade Commission Act, 15 U.S.C. §§ 53(a) and 53(b), 15 U.S.C. § 53(a)

The TRO having been granted and served with the Complaint and Summons on all

~~Defendants, and the Court having considered all pleadings, memoranda, declarations, and other~~

exhibits filed herein, and being fully advised in the premises, it is now **ORDERED,**

**ADJUDGED, AND DECREED** as follows:

**FINDINGS OF FACT**

1. This Court has jurisdiction over the subject matter of this case and over all parties hereto;
2. Venue, process, and service of process are proper;
3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts and practices that violate Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52, and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003

Order with Asset Freeze, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue, and in the accompanying legal memorandum, declarations and exhibits, show that Defendants have engaged in a concerted course of illegal activity in

~~violation of the regulations, advertising, and sale of unsolicited e-mails in violation~~

financial information from consumers, and communicating with consumers; (2) developing, providing or arranging for the development or provision of marketing materials, including, but not limited to, Web site and commercial electronic message content; (3) providing names of, or arranging for the provision of, names of potential customers; (4) performing marketing services of any kind; or (5) acting as an officer or director of a business entity.

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~~“Concurrent and reliable scientific evidence” means tests, analyses, research~~

metal dealer.

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

9. **“Person”** means a natural person, an organization or other legal entity, including

~~cooperative, partnership, sole proprietorship, limited liability company, association,~~

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

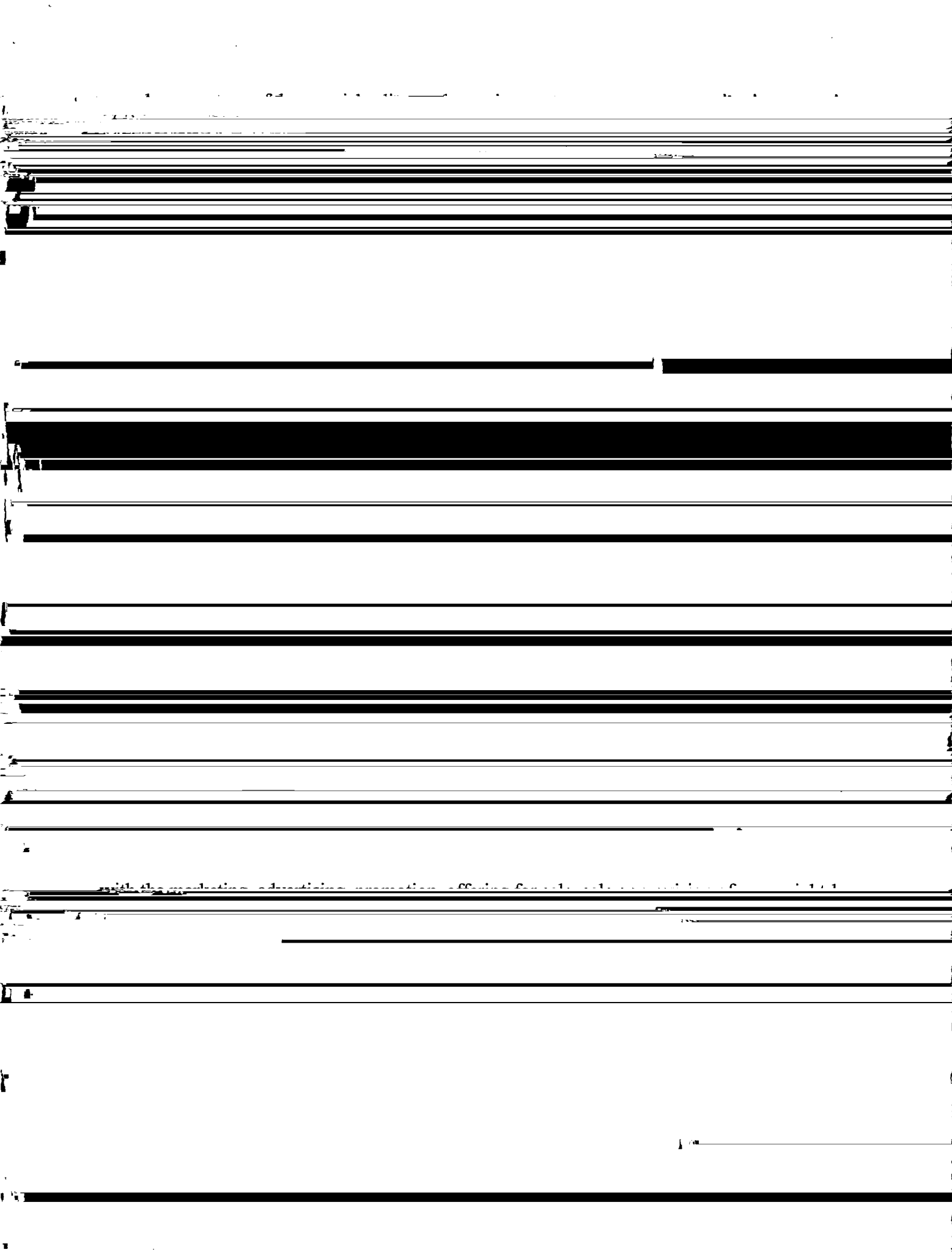
[REDACTED]

[REDACTED]

~~cooperative, company, other entity or combination of entities,~~

[REDACTED]

[REDACTED]



otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other  
device, or any of them, or hereby preliminarily restrained and enjoined from violating or

assisting others in violating, the provisions contained in Sections 5 and 6 of the Controlling the  
Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act"), 15

U.S.C. §§ 7704 and 7705, as currently amended, or of its amendments, or of any

indirectly:

A ~~Selling liquidating assigning transferring converting loaning encumbering~~

pledging, concealing, dissipating, spending, withdrawing, or otherwise disposing of any funds, real or personal property, or other assets or any interest therein, wherever located, including any assets outside the territorial United States, which are:

1. ~~in the actual or constructive possession of any Defendant;~~

2. ~~owned or controlled by or held in whole or in part for the benefit of any~~



- h. Discover Bank;
- i. PaySystems; and
- j. PayPal, Inc.

B. Opening or causing to be opened any safe deposit boxes titled in the name of any Defendant, or subject to access by any Defendant;

C. Incurring charges on any credit card issued in the name of the defendant;

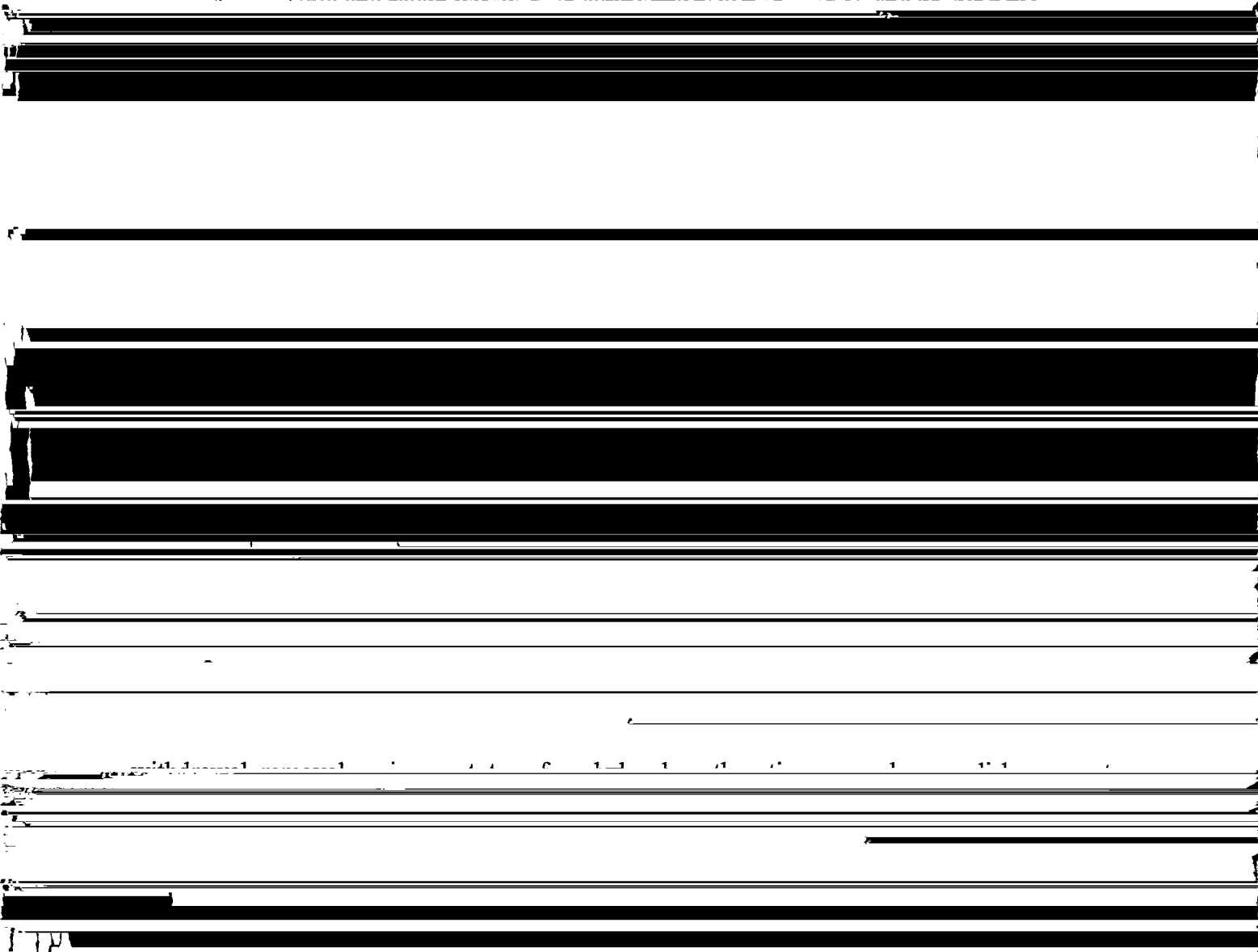
Defendant;

those acquired by loan or gift. Defendants shall hold all assets, including without limitation, payments, loans, and gifts, received after service of this Order.

**IV. DUTIES OF ASSET HOLDERS**

**IT IS FURTHER ORDERED** that, pending determination of the Commission's request for a permanent injunction, any financial institution, or any person or other entity served with a copy of this Order, or who otherwise has actual knowledge of this Order, that has possession, custody, or control of any account, asset, or document held on behalf of, or relating or belonging to, any Defendant, shall:

A. Hold and retain within such entity's possession, control, and custody the



above;

C. Provide to counsel for the Commission, within three (3) business days, a statement setting forth:

1. the identification of each account or asset titled in the name, individually

and jointly, as held or held in trust for the benefit of any Defendant or other party subject

**V. REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS**

**IT IS FURTHER ORDERED** that, if not already performed, within three (3) business days following entry of this Order, Defendants shall:

A. Take such steps as are necessary to repatriate to the United States all documents

and assets that are located outside of such territory and are held by or for Defendants or are under

Defendants' direct or indirect control, jointly, severally, or individually;

B. Provide Plaintiff with a full accounting of all documents and assets that are located outside of the territory of the United States or that have been transferred to the territory of the United States pursuant to Subsection A above and are held by or for any Defendant or are under any Defendant's direct or indirect control, jointly, severally, or individually, including the

participation with them who receive actual notice of this Order by personal service, facsimile, or

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**VII. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each affiliate, partner, division, sales entity, successor, assign, officer, director,

agent, independent contractor, agent, attorney, ad broker, fulfillment house, and

representative of any Defendant. Within five (5) calendar days following service of this Order by

Plaintiff Defendants shall come on Plaintiff an affidavit identifying the name, title, address

**X. FINANCIAL REPORTS AND ACCOUNTING**

**IT IS FURTHER ORDERED** that, if they have not done so already in compliance with the TRO previously entered in this matter, each Defendant, within forty-eight (48) hours after entry of this Order, shall provide to counsel for the Commission:

A. A completed financial statement accurate as of the date of service of this Order upon such Defendant, in the form previously submitted with the TRO entered in this matter as **Attachment B** for individuals and **Attachment C** for businesses, as the case may be, signed under penalty of perjury.

B. A completed statement, verified under oath, of all payments, transfers, or assignments of funds, assets, or property worth \$5,000 or more since August 1, 2003. Such statement shall include: (a) the amount transferred or assigned; (b) the name of each transferee or

~~assignee; (c) the date of the assignment or transfer; and (d) the type and amount of consideration~~

	Full name	address	telephone number	e-mail address	Web site



their affiliates or subsidiaries: the location of documents reflecting the business transactions of

Defendants, or of their affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; Defendants' whereabouts; and/or

~~the location of any premises where Defendants, directly or through any third party, conduct business operations; Defendants' whereabouts; and/or~~

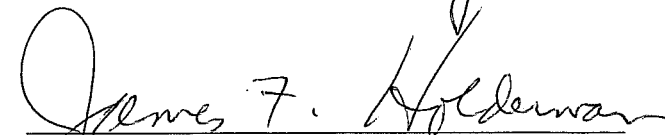
notice shall be deemed sufficient for the production of any such documents that are maintained on

B-

**XIV. RETENTION OF JURISDICTION**

all purposes.

**IT IS SO ORDERED**, this 6<sup>th</sup> day of May, 2004, at 10:50 a.m.

  
United States District Judge