

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 06C 0254
)	
v.)	Judge James F. Holderman
)	
BAD CREDIT B GONE, LLC, and)	Magistrate Judge Nan R. Nolan
)	
JOSEPH A. GRAZIOLA, III,)	
)	
Defendants.)	
)	

**PRELIMINARY INJUNCTION WITH ASSET
FREEZE AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations Act (“CROA”), 15 U.S.C. § 1679h(b), filed a Complaint for Injunctive and Other Equitable Relief, and applied *ex parte* for a Temporary Restraining Order with Asset Freeze, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue (“TRO”) pursuant to Rule 65 of the

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 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the CROA, 15 U.S.C. §§ 1679-1679j;

4. In light of the foregoing findings, the Commission is likely to prevail on the merits of this action;

5. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the CROA, 15 U.S.C. §§ 1679-1679j, absent entry of this Order;

6. 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, assignment, or other disposition or concealment by Defendants of their assets absent continuation of the asset freeze;

7. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b), Fed. R. Civ. P. 65(b);

8. Weighing the equities and considering the Commission's likelihood of ultimate success, this preliminary injunction, asset freeze, and other relief are in the public interest; and

9. No security is required of any agency of the United States for the issuance of a preliminary injunction. *See* Fed. R. Civ. P. 65(c).

DEFINITIONS

1. "Asset" or "assets" means any legal or equitable interest in, right to, or claim to,

real estate interests that include

rights in real estate;

and any other interest in real estate;

it, repair organization, it has the meaning ascribed to that term in the,

equipment

Graziola, III.

7. **“Document”** or **“documents”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rules 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 the term.

8. **“Financial institution”**

**PROHIBITED BUSINESS ACTIVITIES PURSUANT TO
THE FEDERAL TRADE COMMISSION ACT**

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities 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 trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, sale, or provision of any good or service, including, but not limited to, credit repair services, are hereby restrained and enjoined from:

A. Misrepresenting, either orally or in writing, directly or by implication, that Defendants can improve substantially most consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete;

B. Misrepresenting, either orally or in writing, directly or by implication, any fact material to a consumer's decision to purchase any credit repair services from Defendants;

C. Misrepresenting, either orally or in writing, directly or by implication, any material fact regarding any item, product, good, or service sold or offered for sale by Defendant; and

D. Assisting others who violate any provision of Paragraphs A through C of this Section.

II.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO

THE CREDIT REPAIR ORGANIZATIONS ACT

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities 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 trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, sale, or provision of any credit repair services, are hereby restrained and enjoined from violating the CROA, 15 U.S.C. §§ 1679-1679j, as presently enacted or as it may hereinafter be amended, by, including, but not limited to:

A. Violating 15 U.S.C. § 1679b(b) by charging or receiving money or other valuable consideration for the performance of credit repair services that Defendants have agreed to perform before all such services have been fully performed;

B. Violating 15 U.S.C. § 1679b(a)(3) by making or using untrue or misleading statements to induce consumers to purchase credit repair services, including, but not limited to, the representation that Defendants can improve substantially most consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete;

IT IS FURTHER ORDERED that Defendants, whether directly or indirectly, or through any corporation, business entity, or person under their control, are hereby restrained and enjoined from assisting others who violate any provision of the CROA, including, but not limited to, the specific violations contained in Paragraphs A and B of this Section.

III.

DISABLEMENT OF DEFENDANTS' WEB SITE

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities 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 trust, corporation, subsidiary, division, or other device, or any of them, and any other person or entity served with a copy of this Order, shall:

A. Immediately take whatever action is necessary to ensure that any Web site used by Defendants for the advertising, marketing, promotion, offering for sale, sale, or provision of any credit repair services, and containing statements or representations prohibited by Sections I and II of this Order, including, but not limited to, www.badcreditbgone.com, cannot be accessed by the public;

B. Prevent the destruction or erasure of any Web site used by Defendants for the advertising, marketing, promotion, offering for sale, sale, or provision of any credit repair services, including, but not limited to, www.badcreditbgone.com, by preserving such Web sites in the format in which they are maintained currently; and

C. Immediately notify counsel for the Commission of any other Web sites operated or controlled by Defendants.

IV.

POSTING NOTICE OF LAWSUIT ON WEB SITE

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities 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 trust, corporation, subsidiary, division, or other device, or any of them, and any other person or entity served with a copy of this Order, shall immediately take whatever action is necessary to ensure that any Web site disabled as ordered by Section III.A of this Order, shall prominently display only the following statement:

The Federal Trade Commission (“FTC”) has filed a lawsuit against Bad Credit B Gone and Joseph A. Graziola, III, alleging that they have engaged in deceptive practices relating to the advertising, marketing, promotion, offering for sale, sale, or provision of credit repair services. The United States District Court for the Northern District of Illinois has issued a preliminary injunction prohibiting the alleged practices. You may obtain additional information directly from the FTC.

by further order of the Court, are hereby restrained and enjoined from:

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, or subject to access by, or belonging to, any Defendant; or
3. in the actual or constructive possession of, or owned or controlled by, or subject to access by, or belonging to, any corporation, partnership, trust or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any 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, payment service provider, or other financial institution or depository of any kind including, but not limited to, assets at Commerce Bank and DNB First Bank.

B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing Plaintiff prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

C. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Defendant;

2. the balance of each such account, or a description of the nature and value of such asset;

3. the identification of any safe deposit box or storage facility that is either titled in the name of, individually or jointly, or is otherwise subject to access or control by, any Defendant or other party subject to Section V above, whether in whole or in part; and

4. if the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date;

D. The accounts subject to this provision include existing assets and assets deposited after the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, or any further order of the Court; and

E. The Commission is granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena documents immediately from any such financial institution, account custodian, or other entity concerning the nature, location, status, and extent of Defendants' assets, as well as compliance with this Order, and such financial institution, account custodian or other entity shall respond to such subpoena within five (5) business days after service.

VII.

REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that if they have not done so already in compliance with

the Court's TRO entered on January 19, 2006, Defendants, within three (3) business days following entry of this Order, shall:

A. 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 names and addresses of any foreign or domestic financial institution or other entity holding the assets, along with the account numbers and balances;

C. Hold and retain all repatriated documents and assets and prevent any transfer, disposition, or dissipation whatsoever of any such documents or assets;

Provided, however, Defendants may transfer any repatriated documents to the Commission as required by this Order; and

D. Provide Plaintiff access to Defendants' records and documents held by financial institutions or other entities outside the territorial United States, by signing and delivering to Plaintiff's counsel the Consent to Release of Financial Information attached to the Court's TRO as **Attachment A**.

VIII.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by the preceding Section of this Order, including, but not limited to:

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.

X.

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, employee, independent contractor, attorney, client company, agent, and/or representative of any Defendant. Within ten (10) calendar days following service of this Order by Plaintiff,

Defendants 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 Defendants served with a copy of this Order in compliance with this provision.

XI.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, as well as overnight delivery, registered U.S. Mail, or any other means.

FINANCIAL REPORTS AND ACCOUNTING

IT IS FURTHER ORDERED that if they have not done so already in compliance with the Court's TRO entered on January 19, 2006, each Defendant, within forty-eight (48) hours after entry of this Order, shall provide to counsel for the Commission:

A. Completed financial statements on the forms attached to the Court's TRO as **Attachments B** and **C**, for themselves individually and for each business entity under which they conduct business, or of which they are an officer, and for each trust of which they are a trustee. The financial statements shall be accurate as of the date of their completion;

B. A completed statement, verified under oath, of all payments, transfers, or assignments of funds, assets, or property worth \$5,000 or more since January 1, 2004. 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 paid by or to the Defendant. Each statement shall specify the name and address of each financial institution and brokerage firm at which Defendant has accounts or safe deposit boxes. Said statements shall include assets held in foreign as well as domestic accounts; and

C. A completed accounting of all gross and net profits obtained from, derived from, or related in any way to the advertising, marketing, promotion, offering for sale, sale, or provision of credit repair services.

XIV.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(C), and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, Plaintiff is granted leave, at any time after service of this Order, to:

A. Take the deposition, on three (3) calendar days' notice, of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the assets of Defendants, or their affiliates or subsidiaries; the nature and location of documents reflecting Defendants' business transactions, or the business transactions of Defendants' affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; Defendants' whereabouts; and/or 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 Section. Any such depositions taken pursuant to this Section shall not be counted toward the ten (10) 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 Section, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on five (5) calendar 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, 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 applicability of any evidentiary privileges to this action, provided that twenty-four

B. Benefitting from or using the name, address, telephone number, credit card number, bank account number, date of birth, email address, or other identifying or financial information of any person who submitted this information to Defendants as a result of, or otherwise related to, the activities alleged in the FTC's Complaint;

Provided, however, that Defendants may disclose identifying information to a law enforcement agency or as required by any law, regulation, or court order.

XVII.

DUTIES OF THIRD PARTIES PROCESSING PAYMENTS FOR DEFENDANTS

IT IS FURTHER ORDERED that, pending determination of the Plaintiff's request for a permanent injunction, any automated clearing house, network transaction processor, business entity or person providing any services or assistance in processing Defendants' customer payments, including, but not limited to, payments made by bank account debits or check, for any of the Defendants, and which is served with a copy of this Order, or otherwise has actual knowledge of this Order, is hereby restrained and enjoined from providing any assistance in the processing of any payments made by consumers to any of the Defendants.

XVIII.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

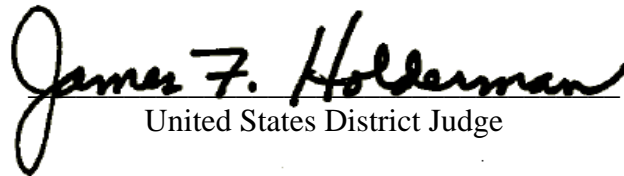
IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

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

XIX. RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 2nd day of February, 2006, at 10:00 a.m.


United States District Judge