

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

FEDERAL TRADE COMMISSION

Plaintiff,

v.

GLOBAL MARKETING GROUP, INC.;  
GLOBAL BUSINESS SOLUTIONS, LLC;  
GLOBALPAY, INC.; GLOBALPAY, LLC;  
GLOBALPAY BV; SYNERGY CONSULTING  
SERVICES, LLC; FIRST PROCESSING  
CORPORATION; ELITE FUNDING GROUP,  
INC.; ONE WORLD GROUP, LLC; ONE  
WORLD CORPORATION; EFT COMMERCE,  
LLC; CELSIUS INTERNATIONAL, LLC;  
CELSIUS, LLC d/b/a GLOBAL  
PRODUCTIONS; GEMINI TRADING  
GROUP, LLC; GEMINI TRADING GROUP,  
INC., d/b/a GEMBILL; KWIKBILL.COM,  
LTD.; EWALLET EXPRESS, INC.; ONE  
PHARM SERVICES, INC; 17407, LLLP;  
555018, LLC; MARKETING SERVICES, LLC,  
d/b/a MED-COST; MERCHANT PROVIDER  
SOLUTIONS, LLC; MERCHANT PROVIDER  
SOLUTIONS, LTD., d/b/a MPS, LTD.;  
UNITRADE BUSINESS, LLC; IRA N. RUBIN;  
and KEVIN D. ASTL;

Defendants, and

PHOELICIA DANIELS;

Relief Defendant.

Case No. 8:06-cv-2272-T-30TGW

**PLAINTIFF FEDERAL TRADE  
COMMISSION'S MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF ITS MOTION  
FOR ORDER TO SHOW CAUSE  
WHY DEFENDANT IRA RUBIN  
SHOULD NOT BE HELD IN  
CONTEMPT**

## **I. INTRODUCTION**

On December 13, 2006, just hours after being served with a Temporary Restraining Order freezing his assets and the assets of the other defendants in this matter, Ira Rubin took over half a million dollars from frozen bank accounts and subsequently converted, transferred, dissipated, concealed, spent, or otherwise disposed of these assets. Although Rubin has thus far refused to account for the disposition of most of these funds, records obtained by the Federal Trade Commission indicate that he has used a significant portion of this money to finance a global gambling and shopping spree that he embarked on just days after the Court froze his assets. This outrageous conduct undermines the central purpose of the asset freeze -- namely, preserving funds for eventual return to the consumers that Rubin helped defraud.

Rubin's violations of the Temporary Restraining Order and a Preliminary Injunction entered by this Court on January 11, 2007 are not limited simply to the misappropriation of frozen assets. Other violations include: (1) the dissipation of tens -- if not hundreds -- of thousands of dollars in assets on international travel, luxury goods, gambling, jewelry, trips to Las Vegas, and prohibited business expenses; (2) the submission of a false sworn financial statement; (3) incurring over \$95,000 in illicit charges on a credit card that Rubin deliberately concealed from the FTC; (4) the concealment of corporate records, including several boxes of files pertaining to defendants' business operations as well as the hard drives from three computers; and (5) assisting in the operation of a payment processing business. Although much of this illicit conduct occurred several months ago, most of the evidence regarding this

conduct came to light only recently and, as discussed below, is also the subject of a separate contempt proceeding that the FTC has been pursuing in the Northern District of Illinois.

The FTC respectfully requests that Rubin be ordered to appear personally before the Court and provide a detailed accounting of all funds that he has transferred, withdrawn, spent, or dissipated in violation of the Court's orders. The FTC further requests that Rubin be ordered to return or repatriate all remaining misappropriated assets to the Court-appointed receiver. Finally, the FTC also requests that Rubin be ordered to return the hard drives of the three computers that he concealed in a U-Haul storage unit that he has been renting in violation of the Preliminary Injunction. If Rubin fails to comply with these requirements, the Court should order Rubin incarcerated until he does so.<sup>1</sup>

## **II. BACKGROUND**

### **A. Proceedings in the Middle District of Florida (*FTC v. Global Marketing Group*)**

The FTC filed its Complaint for Injunctive and Other Relief on December 11, 2006 against Ira Rubin and several corporations that he owned or controlled, charging them with violating Section 5(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule," 16 C.F.R. Part 310. The FTC alleged that Rubin knowingly provided substantial assistance to at least nine

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<sup>1</sup> Most of the information underlying the FTC's motion has been provided to the court-appointed receiver, Robb Evans & Associates, LLC. In some cases, the receiver has assisted in the gathering of this information. The FTC has informed the receiver about the timing and substance of this motion.

advance-fee telemarketing scams, withdrawing or attempting to electronically withdraw millions of dollars from consumers' bank accounts on behalf of these scams via the

**B. Contempt Proceedings in the Northern District of Illinois (*FTC v. Centurion Financial Benefits*)**

Rubin is also the subject of a separate contempt proceeding in a different FTC case filed in federal court in Chicago. Specifically, in September 2005, the FTC brought a civil enforcement action against a Canadian telemarketing operation engaged in the sale of non-existent credit cards to U.S. consumers. *See FTC v. Centurion Financial Benefits LLC*, No. 05-C-5442 (N.D. Ill. 2005). On a0tanuary/T1Septem

asset freeze imposed in this case for the limited purpose of allowing Rubin to transfer assets in compliance with the Contempt Order. Shortly thereafter, the FTC discovered that Rubin had laundered \$320,000 through two Las Vegas casinos. The FTC then filed a motion in the Northern District to have Rubin incarcerated for his continued failure to comply with the Contempt Order. On October 5, 2007, the parties conducted an evidentiary hearing in the Northern District at which Rubin testified.<sup>2</sup> At the close of this hearing, Judge Moran declined to rule on the FTC's motion to have Rubin incarcerated. Instead, Judge Moran subsequently issued an order requiring Rubin to transfer several hundred thousand dollars in assets to the Northern District in compliance with the Contempt Order.<sup>3</sup> Rubin has not yet complied with this order and the FTC's motion to incarcerate Rubin is still pending before Judge Moran.

### **III. VIOLATIONS OF THE TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

#### **A. Rubin Has Stolen, Converted, Dissipated, or Concealed Over Half A Million Dollars in Frozen Assets in Violation of Section III(A) of the TRO**

On December 13, 2006, at approximately 9:32 a.m., FTC investigator Douglas McKenney personally served Rubin with a copy of the TRO,<sup>4</sup> which contains the following provision preventing Rubin and other defendants from:

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<sup>2</sup> In advance of this hearing, the FTC deposed Rubin. True and correct transcripts of the hearing and deposition are attached hereto as Exhibits 1 and 2, respectively.

<sup>3</sup> This order is attached hereto as Exhibit 3.

<sup>4</sup> See Declaration of Service of Douglas M. McKenney ¶ 3 at Dkt. #21 Att. 3.

Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, 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, that are: (1) owned, controlled or held by, or for the benefit of, in whole or in part, any Defendant; or (2) in the actual or constructive possession of any Defendant, including, but not limited to, any Assets held for or by any Defendant in any account at any bank or savings and loan institution . . . or other financial institution or depository of any kind, either within or outside the United States;

(TRO § III.A.) We have recently learned that approximately three hours after being served with the TRO, at 12:21 p.m., Rubin withdrew \$320,000 from a frozen account at Regions Bank in the form of two cashiers checks, one for \$250,000 and a second for \$70,000.<sup>5</sup> On January 17, 2007, Rubin deposited the \$70,000 check into a so-called “front money account” at the Mandalay Bay Resort and Casino in Las Vegas.<sup>6</sup> The next day, Rubin deposited the \$250,000 check into an account at the Wynn Las Vegas.<sup>7</sup>

Approximately two hours after taking \$320,000 from Regions Bank, Rubin transferred an additional \$250,000 out of another frozen account at a different bank. Specifically, on the afternoon of December 13, 2006, Rubin initiated the following three wires from a subsidiary account of Defendant Globalpay, LLC at Wells Fargo bank:<sup>8</sup>

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<sup>5</sup> See Exhibit 4, Declaration of Douglas M. McKenney in Support of Plaintiff's Motion for Order to Show Cause (“McKenney Dec.”) ¶ 2 Att. A. Although the court-appointed receiver served Regions Bank with the TRO the morning of December 13, 2006, the bank had apparently not processed the order in time to stop Rubin.

<sup>6</sup> Id. at ¶ 3 Att. B.

<sup>7</sup> Id. at ¶ 4 Att. C.

<sup>8</sup> Id. at ¶ 5 Att. D. As of December 13, 2006, Rubin was the only individual with signature authority on this account and therefore the only one capable of initiating these

<u>Time</u>	<u>Amount</u>	<u>Recipient Account</u>	<u>Receiving Bank</u>
2:03 p.m.	\$124,874.94	Arista Solutions, LLC	Mercantile Bank
2:09 p.m.	\$52,764.06	Internet Transaction Services, Inc	Wells Fargo Bank
2:24 p.m.	\$71,135.96	CSTR Solutions, Inc.	Bank of America
<b>TOTAL:</b>	<b>\$248,774.96</b>		

Significantly, one of these recipients, Internet Transaction Services, is owned by Edward Courdy, an associate of Rubin's. A few weeks after receiving this wire, Courdy provided Rubin with an American Express credit card on which, as explained in greater detail below, Rubin incurred approximately \$95,000 in charges over the next several months. The largest transfer -- nearly \$125,000 to Arista Solutions -- stayed in the recipient's bank account for just one day before being wired on December 15, 2006 to an offshore account in Chennai, India.<sup>9</sup>

Thus far, Rubin has refused to account for the disposition of the vast majority of funds that he took from the receivership estate on December 13, 2006. Invoking his Fifth Amendment privilege against self-incrimination, Rubin has either been unwilling to acknowledge that he took the funds in the first place or declined to explain what has become

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transfers. Id. As with Regions Bank, Wells Fargo had been served with the TRO the morning of December 13, 2006, but had apparently not placed a hold on the account in question prior to Rubin's initiation of these transfers.

<sup>9</sup> Id. at ¶ 6 Att. E. The \$71,135 transfer to CSTR Solutions remains frozen in the recipient's bank account.



of the funds.<sup>10</sup> Rubin should be compelled both to return funds that he has taken in violation of the TRO and Preliminary Injunction as well as provide a detailed accounting of such funds.

**B. Rubin Has Incurred Nearly One Hundred Thousand Dollars in Illicit Expenses in Violation of Section III(E) of the Preliminary Injunction**

Section III(E) of the Preliminary Injunction allows Rubin to spend no more than \$7,000 per month for “reasonable, usual, ordinary, and necessary living expenses.” Rubin has systematically violated this provision since entry of the Preliminary Injunction, dissipating in excess of \$95,000 on gambling, jewelry, and luxury goods that have no reasonable connection to his “living expenses.” Indeed, Rubin has admitted using some of the money he took from Regions Bank to maintain “a standard of living and way of life to which he had become accustomed.”<sup>11</sup> Examples of these “standard of living” expenditures include:

<u>Date</u>	<u>Expense</u>	<u>Amount</u>	<u>Citation</u>
January 2007	Gambling losses	\$27,900	Rubin Dep. at p. 27
January - July 2007	Lodging at Mandalay Bay and Wynn Las Vegas casinos	\$5,458	McKenney Dec. ¶ 9

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<sup>10</sup> See, e.g., Exhibit 2, Deposition of Ira Rubin (“Rubin Dep.”) at pp. 19-21, 23-24, 31, 35-37, 41-42. Rubin has, however, acknowledged buying jewelry and other expensive gifts for an ex-employee and various Columbian “girls” that he has consorted with on his many recent trips to Costa Rica. *Id.* at 49-54.

<sup>11</sup> McKenney Dec. ¶ 16 Att. N at p.10.

February-March 2007	Shoes	\$3,020	Rubin Dep. at pp. 54-55
March 23, 2007	Eyewear	\$2,430	McKenney Dec. ¶ 9
April 2007	Jewelry	\$2,782	McKenney Dec. ¶ 9
May 2007	Jewelry	\$12,370	McKenney Dec. ¶¶ 9, 16 Att. N at p. 12
May - July 2007	Luggage	\$3,870	McKenney Dec. ¶¶ 9, 16 Att. N at p. 12
May - July 2007	Clothes and Shoes	\$10,727	McKenney Dec. ¶ 9
June 2007	Jewelry	\$1,582	McKenney Dec. ¶ 9
June - July 2007	Victoria's Secret	\$1,592	McKenney Dec. ¶ 9
July - August 2007	Car rental	\$2,502	McKenney Dec. ¶ 9
January - August 2007	Airfare for 10 trips to Costa Rica and one trip each to London, Amsterdam, Spain and Toronto	\$9,898	McKenney Dec. ¶ 9
February - August 2007	Airfare for third parties to fly to and from Costa Rica, New York and London	\$2,877	McKenney Dec. ¶ 9
June - July 2007	Check processing hardware, software and supplies	\$1,311	McKenney Dec. ¶ 9
September - October 2007	Airfare and lodging	\$9,088	McKenney Dec. ¶ 9

Some of these expenditures, such as Rubin's purchase of check processing materials, appear related to business ventures that Rubin has been operating in violation of Section I of the Preliminary Injunction. Regardless of their purpose, however, none of the above expenses can be characterized as reasonable, usual, ordinary, or necessary.



**D. Rubin Incurred Over \$100,000 in Charges on an American Express Card and other Credit Cards in Violation of Section III(C) of the Preliminary Injunction**

Rubin used numerous credit cards to pay for many of the illicit expenses described above in Section III(B). In doing so, Ruben directly violated Section III(C) of the Preliminary Injunction, which prohibits Ruben from incurring more than \$5,000 in charges or cash advances on any credit cards issued in his name.

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from a low of \$5,546 to a high of \$15,889.<sup>21</sup> The combined September 2007 balances for Rubin's Visa and MasterCard credit cards amounted to \$10,230.18.<sup>22</sup>

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2007. The mere renting of such a unit represents yet another clear violation of Section III(B) of the TRO, which flatly prohibits Rubin from doing so without providing the FTC prior notice and an opportunity to inspect its contents.<sup>28</sup> In addition to boxes of business records, the storage unit also contained three computers with missing hard drives.<sup>29</sup> Rubin should be required to return the hard drives from these computers or account for their whereabouts.

**F. Rubin Is Engaging in Or Assisting Others in Engaging in Payment Processing in Violation of Section I of the Preliminary Injunction**

Rubin has violated Section I of the Preliminary Injunction by assisting in the operation of a payment processing business. The Preliminary Injunction clearly and unambiguously prohibits Rubin from: “Engaging in, or assisting others in engaging in, payment processing.” (Preliminary Injunction § I.A.) The order broadly defines “payment processing” to include:

the performance of any function of collecting, charging, or transmitting a consumer’s payment the ogd4 BtI-2.34 Tdrv,hC9n21sffn0etop Tc 44(.A.) -f Secuwaftss)4tr 7

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Solutions, Inc.<sup>30</sup> On January 16, 2007, Kapustin posted two solicitations on a payment processing website promoting her new business.<sup>31</sup> These notices clearly indicate that Kapustin was engaged in, or sought to engage in, payment processing on behalf of high risk, outbound telemarketers – the same type of clients that Rubin specialized in serving prior to the FTC's lawsuit.<sup>32</sup> Rubin has admitted under oath to advising Kapustin about banking and risk issues.<sup>33</sup> He has also admitted purchasing over \$1,000 in check processing hardware and software for her as well as a supply of blank checks.<sup>34</sup> This conduct violates Section I(A) of the Preliminary Injunction.

#### **IV. PROPOSED ORDER**

The Court froze Rubin's assets and prohibited him from engaging in payment processing in an attempt to insure that he would not continue to victimize consumers and to preserve funds that might be used to redress consumers previously victimized by his illicit conduct. To prevent further consumer injury and asset dissipation, the Commission therefore requests that this Court take all necessary action to coerce Rubin's compliance with the Preliminary Injunction, including the following.

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<sup>30</sup> McKenney Dec. ¶ 17 Att. O.

<sup>31</sup> Id. at ¶ 18 Att. P.

<sup>32</sup> In her solicitations, Kapustin appealed to merchants who had “been turned down before,” claiming to accept “Outbound [telemarketers]” and “Recurring TEL.” Indeed, Kapustin posted both solicitations on a forum specifically dedicated to “High Risk Business.” Id.

<sup>33</sup> Rubin Dep. at pp. 72-73.

<sup>34</sup> Id. at pp. 74-77.



First, the Court should require Rubin to immediately return or repatriate all funds that he has misappropriated from frozen accounts.

Restraining Order.

WHEREFORE, if Rubin is found to be in contempt, the Commission respectfully requests that the Court enter any and all relief that is necessary and appropriate in order to coerce Rubin's compliance with the terms of the Preliminary Injunction, up to and including incarceration.

Respectfully Submitted,

WILLIAM BLUMENTHAL  
General Counsel

DATED: December 14, 2007

/s James H. Davis  
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