
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	<i>CORRECTED</i>
)	
PARTNERS IN HEALTH CARE)	
ASSOCIATION, INC. <i>et al.</i> ,)	
)	
Defendants.)	

On August 25, 2014, the Federal Trade Commission (“FTC” or “Commission”) filed its Complaint for Permanent Injunction and Other Equitable Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”). The Court subsequently entered a Temporary Restraining Order with an Asset Freeze, Appointment of a Temporary Receiver, Immediate Access, Other Equitable Relief, and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue (the “TRO”) on August 25, 2014.

The preliminary injunction hearing took place on September 4, 2014. All parties attended and presented evidence and arguments. Based on the evidence and arguments presented in connection with the Commission’s motion for a temporary restraining order and at the preliminary injunction hearing, the Court finds that there is a likelihood that the Commission will succeed in showing that defendants Partners In Health Care Association, Inc. and Gary L. Kieper (the “PIHC Defendants”) have violated Section 5(a) of the FTC Act and the Telemarketing Sales Rule as alleged in the

Complaint. The Court orders that the Receiver cease operations of Partners In Health Care Association, Inc., and its affiliated entities, including, but not limited to, TRI Resource Group Ltd., Senior Advantage of Wisconsin Inc., and PIHC Inc. and the Court now issues this Preliminary Injunction (the “Order”) against the PIHC Defendants.

Now, therefore, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

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1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto and that venue in this district is proper;
 2. There is good cause to believe that the PIHC Defendants have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action. As demonstrated by the more than 20 consumer declarations and the additional documentation filed by the FTC, the FTC has established the likelihood of success in showing that the PIHC Defendants have made serious misrepresentations leading consumers to believe, among other things, that the PIHC Defendants offer health insurance or the equivalent of such insurance when, in fact, they market and sell a “medical discount” card.
 3. There is good cause to believe that immediate and irreparable harm will result from the PIHC Defendants’ ongoing violations of the FTC Act unless the PIHC Defendants are restrained and enjoined by Order of this Court.

4. Good cause also exists for: (a) the continued appointment of a Receiver over Partners In Health Care Association, Inc.; (b) the freezing of the PIHC Defendants' Assets; and (c) the ancillary relief ordered below. The FTC has demonstrated a likelihood that Gary L. Kieper is individually liable and properly subject to an asset freeze. *See F. T. C. v. Gem Merchandising Corp.*, 87 F.3d 466, 470 (11th Cir. 1996). Specifically, FTC has demonstrated that it will likely prevail in showing that Defendant Gary L. Kieper has the ability to control Partners In Health Care Association, Inc., because he is an officer, director, or manager of Partners In Health Care Association, Inc. Similarly, the FTC has demonstrated it will likely prevail in showing that Defendant Gary L. Kieper either had knowledge of the misrepresentations, were recklessly indifferent to the fact that misrepresentations were being made, or were aware that there was a high probability that misrepresentations were made but intentionally avoided the truth.
 5. After weighing the equities and considering the FTC's likelihood of ultimate success on the merits, a preliminary injunction with an asset freeze and the appointment of a Receiver is in the public interest; and
6. Action with an asset freeze and the

and visual portions of the communication. In any communication presented solely through visual or audio means, the message shall be made through the same means in which the communication is presented. In any communication disseminated by means of an interactive electronic medium (e.g., Internet), a disclosure must be unavoidable and presented prior to the consumer incurring any financial obligation. Any audio message shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it in relation to any claim it may be modifying. Any visual message shall be presented in a manner that stands out in the context in which it is presented, so that it is sufficiently prominent, because of its size and shade, contrast to the background against which it appears, length of time it appears on the screen, and its location, for an ordinary consumer to notice, read, and comprehend it in relation to any claim it may be modifying; and

c. Regardless of the medium used to disseminate it, a message that uses only understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the message shall be used in any communication.

means Partners In Health Care Association, Inc., and its subsidiaries, affiliates, successors, and assigns, including, but not limited to, TRI Resource Group Ltd., Senior Advantage of Wisconsin Inc., and PIHC Inc.

is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and any 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.

“ ” means the Federal Trade Commission Act codified at 15 U.S.C. §§ 41-58.

means Gary L. Kieper.

“ ” means a natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

” means either Gary L. Kieper or Partners In Health Care Association, Inc., and its subsidiaries, affiliates, successors, and assigns, including, but not limited to, TRI Resource Group Ltd., Senior Advantage of Wisconsin Inc., and PIHC Inc.

” or “ ” or “ ” means the Federal Trade Commission. means the receiver appointed in Section XIV of this Order and any deputy receivers that shall be named by the receiver.

means the Corporate Defendant.

“ or means the PIHC Defendants’ officers, agents, servants, employees, and attorneys, and any other person or entity in active concert or participation with them, who receives actual notice of this Order by personal service or otherwise.

means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor. 16 C.F.R. § 310.2(bb).

“ ” means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

“ ” or “ ” means the Telemarketing Sales Rule set forth in 16 C.F.R. Part 310.

that the PIHC Defendants and their Representatives, whether acting directly or indirectly through any entity, corporation, subsidiary, division, director, officer, manager, member, affiliate, agent, independent contractor, accountant, financial advisor, or other device, in connection with the marketing, advertising, promotion, distribution, offer for sale of any goods or services, or sale of Medical Discount Cards, are hereby restrai

Any Material terms regarding the total cost to purchase, receive, or use, and the quantity of, any goods or services that are sold or marketed by the PIHC Defendants; and

Any Material restrictions, limitations, or conditions to purchase, receive, or use any products or services sold or marketed by the PIHC Defendants.

that the PIHC Defendants and their

Representatives, whether acting directly or through any entity, corporation, subsidiary, division, officer, director, manager, member, affiliate, agent, independent contractor, accountant, financial advisor, or other device, in connection with the Telemarketing, advertising, marketing, promotion, offering for sale, or sale of any product or service, are hereby restrained and enjoined from:

Using any false or misleading statement to induce any person to pay for goods or services;

Misrepresenting any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of the sales offer;

Providing substantial assistance or support to any seller or telemarketer when the PIHC Defendants know or consciously avoid knowing that their sellers or telemarketers are engaged in any of the conduct set forth in this Section; and

Violating the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as Appendix A.

that the PIHC Defendants and their Representatives, whether acting directly or indirectly through any entity, corporation, subsidiary,

division, director, officer, manager, member, affiliate, agent, independent contractor, accountant, financial advisor, or other device, in connection with the marketing, advertising, promotion, distribution, offer for sale of any goods or services, are hereby restrained and enjoined from failing to disclose to consumers before purchase, in a Clear and Conspicuous manner, any mate

2. held, in whole or in part, for the direct or indirect benefit of, any PIHC Defendant;
3. in the actual or constructive possession of any PIHC Defendant;
4. held by an agent of any PIHC Defendant as a retainer for the agent's provision of services to the PIHC Defendants;
5. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any of the PIHC Defendants, or of which any PIHC Defendant is an officer, director, member, or manager. This includes, but is not limited to, any Assets held by, for, or subject to access by, any of the PIHC Defendants at any bank or savings and loan institution, or at/with any broker-dealer, escrow agent, title company, insurance company, commodity trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third party processor, payment gateway or other financial institution or depository of any kind; or
6. held in any account for which any PIHC Defendant is, or was on the date that this Order was signed, an authorized signor.

Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any PIHC Defendant, either individually or jointly, or subject to access by any PIHC Defendant, except as necessary to comply with Section XVI of this Order;

Obtaining a personal or secured loan encumbering the Assets of any PIHC Defendant, or subject to access by any PIHC Defendant;

Incurring liens or other encumbrances on real property, personal property, or other Assets in the name, individually or jointly, of any PIHC Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any PIHC Defendant ; or

Incurring charges or cash advances on any credit or bank card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any PIHC Defendant or of which any PIHC Defendant is an Officer, Director, Member, or Manager. This includes, but is not limited to, any corporate bank card or corporate credit card account for which any PIHC Defendant is, or was on the date that this Order was signed, an authorized signor.

that the Assets affected by this Section shall include: (a) all Assets of the Corporate Defendant; and (b) all Assets of the Individual Defendant existing as of the date this Order was entered, or acquired by any Individual Defendant following entry of this Order, if such Assets are derived from any activity that is the subject of the Commission's Complaint or that is prohibited by this Order.

that any financial or brokerage institution, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person served with a copy of this Order that (a) holds, controls, or maintains custody of any account or Asset of any PIHC Defendant , (b) holds, controls, or

maintains custody of any Asset associated with credits, debits or charges made on behalf of any PIHC Defendant , including reserve funds held by payment processors, credit card processors, payment merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies or other entities, or (c) has held, controlled, or maintained custody of any such account or Asset at any time since the date of entry of this Order shall:

Hold and retain within its control and prohibit the withdrawal, removal,

C. A completed IRS Form 4506, appended to this Order as _____, requesting tax returns for the past three years be sent to counsel for the FTC at the following address:

Gary Ivens
Federal Trade Commission
600 Pennsylvania Avenue NW
Mail Stop CC-8528
Washington, DC 20580
(202) 326-2330

that within five (5) days following the service of this Order, each PIHC Defendant shall, to the extent it has not already been done pursuant to the TRO issued in this case:

Provide the Commission and the Receiver with a full description, verified under oath and accurate as of the date of this Order, of all funds, Documents, and Assets outside of the United States which are: (1) titled in the name, individually or jointly, of any Defendant; or (2) held by any person or entity for the benefit of any Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant; and

Provide the Commission and Receiver access to all records of accounts or Assets of any PIHC Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records appended to this Order as _____.

Transfer to the territory of the United States and deliver to the Receiver all funds, Documents, and Assets located in foreign countries which are: (1) titled in the name individually or jointly of any PIHC Defendant; or (2) held by any person or entity,

for the benefit of any PIHC Defendant; or (3) under the direct or indirect control of any PIHC Defendant, whether jointly or singly.

The same business day as any repatriation, (1) notify counsel for the Commission of the name and location of the financial institution or other entity that is the recipient of such funds, documents, or assets; and (2) serve this Order on any such financial institution or other entity; and

Provide the Commission access to all records of accounts or assets of any PIHC Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of

is required pursuant to a court order, until such time that all of the PIHC Defendants'

Failing to create and maintain Documents that, in reasonable detail, accurately, fairly, and completely reflect the PIHC Defendants' incomes, disbursements, transactions, and use of the PIHC Defendants' Assets; and

Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing counsel for 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.

that the PIHC Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby restrained and enjoined from:

Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any person who paid money to a PIHC Defendant for a Medical Discount Card or who were contacted or are on a list to be contacted by any PIHC Defendant; and

Benefitting from or using the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of

any Person from whom or about whom any PIHC Defendant obtained such information in connection with any activity that pertains to the subject matter of this Order.

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

Law enforcement personnel, including police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

Conserve, hold, and manage all Assets of the Receivership Defendant, and perform all acts necessary or advisable to preserve the value of those Assets in order to prevent any irreparable loss, damage, or injury to consumers or creditors of the Receivership Defendant, including determining the available Assets and preventing the unauthorized transfer, withdrawal, or misapplication of Assets;

Enter into and cancel contracts, and purchase insurance as advisable or necessary;

Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with the Receivership Defendant;

Manage and administer the business of the Receivership Defendant until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes but is not limited to retaining, hiring, or dismissing any employees, independent contractors, or agents, provided that the Receiver shall suspend business operations of the Receivership Defendant if, in the judgment of the Receiver, such operations cannot be continued legally or profitably;

Prevent the destruction or erasure of any web page or website registered to and operated, in whole or in part, by Receivership Defendant;

Take all steps necessary to ensure that any of the Receivership Defendant's web pages or websites relating to Medical Discount Cards cannot be accessed by the public, or are modified for consumer education and/or informational purposes;

Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendant prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of the Receivership Defendant, such as rental payments;

Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the Assets of the Receivership Defendant, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including actions challenging fraudulent or voidable transfers;

Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against the Receivership Defendant, as the Receiver deems necessary and

advisable to preserve the Assets of the Receivership Defendant, or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the Receivership estate;

Open one or more bank accounts as designated depositories for funds of the Receivership Defendant. The Receiver shall deposit all funds of the Receivership Defendant in such a designated account and shall make all payments and disbursements from the Receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;

Maintain accurate records of all receipts and expenditures incurred as Receiver;

Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency; and

File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court.

that the PIHC Defendants, their Representatives, and any other person, with possession, custody or control of property of or records relating to the Receivership Defendant shall, upon notice of this Order by personal service or otherwise, immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

All Assets of the Receivership Defendant;

All Documents of the Receivership Defendant, including books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title Documents and other papers;

All computers, electronic devices and machines and data in whatever form used to conduct the business of the Receivership Defendant;

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merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies and other financial institutions and depositories of any kind, as well as all common carriers, telecommunications companies and third-party billing agents.

that the PIHC Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the Assets or Documents subject to this Receivership;

Transacting any of the business of the Receivership Defendant;

Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendant or the Receiver; and

Refusing to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any order of this Court.

that, except by leave of this Court, during pendency of the Receivership ordered herein, the PIHC Defendants, their Representatives, corporations, subsidiaries, divisions, or affiliates, and all investors,

creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of the PIHC Defendants, and all others acting for or on behalf of such persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Defendant, including, but not limited to:

Petitioning, or assisting in the filing of a petition, that would cause any Receivership Defendant to be placed in bankruptcy;

Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Receivership Defendant, including the issuance or employment of process against the Receivership Defendant, except that such actions may be commenced if necessary to toll any applicable statute of limitations;

Filing or enforcing any lien on any Asset of the Receivership Defendant, taking or attempting to take possession, custody, or control of any Asset of the Receivership Defendant, or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of the Receivership Defendant, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

Initiating any other process or proceeding that would interfere with the Receiver's efforts to manage or take custody, control, or possession of, the Assets or Documents subject to this receivership.

Provided that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) the enforcement of a judgment, other than a money judgment,

obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the Assets now held by, in the possession or control of, or which may be received by, the Receivership Defendant. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of entry of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Orde

sufficient for the production of any such Documents that are maintained or stored only in an electronic format;

Service of discovery upon a party to this lawsuit, taken pursuant to this Section, shall be sufficient if made by facsimile, email or by overnight delivery. Any expedited discovery taken pursuant to this Section is in addition to, and is not subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure and Local Rules of this Court;

If a PIHC Defendant fails to appear for a properly noticed deposition or fails to comply with a request for production or inspection, that PIHC Defendant may be prohibited from introducing evidence at the hearing on the Commission's request for a preliminary injunction;

The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Rules 26(d) & (f) of the Federal Rules of Civil Procedure; and

The Parties are exempted from making initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B) until further order of this Court.

that this Order may be served on any Person (including any financial institution) that may have possession, custody or control of any property, property right, Document, or Asset of any PIHC Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure, by any means, including U.S. First Class Mail, overnight delivery, facsimile, email, text message, social network, electronic messaging service, or personal service, by agents or employees of Plaintiff, by agents or employees of the Receiver, by

any law enforcement agency, by private process server, or by any person or entity permitted by the Federal Rules of Civil Procedure to effect service. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity. This Order shall bind Persons (including entities) that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure upon such Person's receipt of actual notice, by personal service or otherwise, of this Order. *See* FED. R. CIV. P. 65(d)(2).

that, for the purpose of this Order, all
correspondence and service of pleadings on Plaintiff shall be addressed to:

limitations on defendants Walter S. Vargas, Constanza Gomez Vargas, or United Solutions Group Inc.

, this 11th day of Septemeber, 2014.

Robert N. Scola
UNITED STATES DISTRICT JUDGE