

Baker, shares he held in an Internet sports gambling venture, and his ownership of two foreign bank accounts - Receivership assets worth nearly \$40 million. Quite simply, the Court's preliminary injunction and final judgment have had no affect on Pukke's practice of concealing assets and preventing consumer redress.

I. FACTUAL BACKGROUND

Pukke and Baker have blatantly violated two of the Court's orders: the Preliminary Injunction Order with Asset Freeze, Appointment of a Receiver, Repatriation of Assets, and Other Equitable Relief ("Preliminary Injunction Order", DE #122) and the Stipulated Final Judgment and Permanent Injunction as to Defendants Debtworks, Inc. and Andris Pukke ("Stipulated Final Judgment," DE # 473).

Eighteen months ago, on April 20, 2005, this Court issued its Preliminary Injunction Order finding a substantial likelihood that Pukke had violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by making deceptive claims about the nature and costs of services provided by AmeriDebt, a so-called non-profit credit counseling organization, to induce distressed consumers to pay for high-cost debt management plans. Preliminary Injunction Order Findings ¶ 2. Accordingly, the Court entered an immediate asset freeze, an accounting, repatriation of assets, and the appointment of a receiver. *Id.*

service of the order upon them and “fully cooperate and assist the Receiver in taking and maintaining possession, custody, or control of Receivership Property.” *Id.* at Order §§ VII-VIII. Further, the Preliminary Injunction Order requires Pukke to repatriate foreign assets to the United States. *Id.* at Order § IV.

Entertainment Ltd., later acquired by Sportingbet Plc, notwithstanding his vehement yet inaccurate statements to the contrary to this Court. *See* Response of Andris Pukke to the Report of Receiver's Activities January 1, 2006 through June 23, 2006 ("Pukke Response," DE # 493) at 5-6. Pukke also has attempted to hide accounts at Hansabanka, a bank located in Latvia, including an account ending in 5390. Pukke stated that he owned the 5390 account on a sworn financial statement dated February 12, 2004 that he signed in connection with a loan application to a bank. However, when faced with losing the \$12 million that is currently in the account, Pukke chose to disavow his previous sworn statement that he owns the account. Pukke Response at 5 (explaining that a banker told Pukke to list among his assets the 5390 account belonging to Pukke's father because Pukke had previously made a loan to his father).

II. LEGAL ANALYSIS

Pukke's actions constitute flagrant violations of the Court's orders and clearly meet the Fourth Circuit's standard for contempt:

(1) the existence of a valid decree of which the alleged contemnor had actual or constructive knowledge; (2) a showing that the decree was in the movant's 'favor;' (3) a showing that the alleged contemnor ... violated the terms of the decree and had knowledge (at least constructive knowledge) of such violations; and (4) a showing that the movant suffered harm as a result.

The Colonial Williamsburg Foundation v. The Kittinger Co., 792 F.Supp. 1392, 1405-06 (E.D. Va. 1992) (citation omitted), *aff'd*, 38 F.3d 133 (4th Cir. 1994). First, there is no dispute that the Preliminary Injunction Order and the Stipulated Final Judgment are valid orders of which Pukke had actual knowledge.² Second, the orders were entered in favor of the FTC, as indicated by the

² Pukke has been represented by counsel throughout this matter. Moreover, Pukke himself signed the Stipulated Final Judgment and signed a sworn affidavit indicating that he received a copy of the order on May 30, 2006, two weeks after the order was entered. *See* Affidavit for Receipt of Final Order, Exhibit B.

Court's issuing the Preliminary Injunction Order upon finding that the FTC was likely to succeed on the merits of its claim and the Stipulated Final Judgment's requirement that Pukke turn over his assets so they could be returned to consumers. Third, as set forth above and in more detail throughout the Receiver's Application, Pukke has hidden assets worth approximately \$40 million in violation of the Court's orders requiring him to turn over such assets to the Receiver, cooperate with and assist the Receiver in taking over Pukke's assets, and repatriate his foreign assets to the United States. Fourth, these violations have clearly inflicted injury on the FTC by withholding from consumers millions of dollars that were derived from Pukke's unlawful activities.

Baker's actions in assisting Pukke also constitute contempt of the Preliminary Injunction Order and Stipulated Final Judgment. Pursuant to Fed. R. Civ. P. 65(d), injunctions are binding "upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise." *Id.* This Court, in the exercise of its equitable powers, may hold nonparties with actual notice of an order in contempt of the order when they "act in concert with named parties to frustrate an injunctive decree or to avoid compliance with it." *Equal Employment Opportunity Commission v. Internat'l Longshoremen's Association*, 541 F.2d 1062, 1063-64 (4th Cir. 1976). As explained in the Receiver's Application, Baker was personally served with the Preliminary Injunction Order on September 15, 2005 and again on September 16, 2005, and he admitted under oath that he knew of the Preliminary Injunction Order since early October 2005. Nevertheless, Baker acted in concert with Pukke in hiding various assets, including Pukke's ownership interest in Dolphin Development Co., Ltd., the Laguna Beach real estate, and Internet Opportunity/Sportingbet. Indeed, without Baker's

assistance, Pukke likely would not have been successful in concealing Receivership assets for as long as he did.

III. CONCLUSION

For the foregoing reasons, the FTC joins in the Receiver's Application seeking an order to show cause why Pukke and Baker should not be held in contempt and all other relief requested therein.

Dated: November 6, 2006

Respectfully submitted,

FEDERAL TRADE COMMISSION
William Blumenthal
General Counsel

/s/ Malini Mithal

MALINI MITHAL
600 Pennsylvania Ave., NW
Mail Drop NJ-2122
Washington, DC 20580
(202) 326-2972 (telephone)
(202) 326-2558 (facsimile)
mmithal1@ftc.gov

LUCY E. MORRIS
Federal Trade Commission
600 Pennsylvania Ave., NW
Mail Stop NJ-3158
Washington, D.C. 20580
(202) 326-3295 (telephone)
(202) 326-3768 (facsimile)
lmorris@ftc.gov

Local Counsel
JEANNE M. CROUSE (#05329)
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Mail Stop H-485
Washington, D.C. 20580
(202) 326-3312 (telephone)
(202) 326-3799 (facsimile)
jcrouse@ftc.gov

UNITED STATES DISTRICT COURT

