

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ELECTRONICALLY
FILED
Feb 05 2019
U.S. DISTRICT COURT
Northern District of WV

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil No. 1:19-CV-18 (Kleeh)

BARBARA ARBLE, and

HARRY ARBLE,

Defendants.

UNITED STATES' COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, the United States of America (“United States”), through its undersigned counsel, hereby sues Defendants Barbara Arble and Harry Arble (“Defendants”) and alleges as follows:

INTRODUCTION

1. Starting as early as January 2011 and continuing to the present, the Defendants have assisted and facilitated a predatory wire and mail fraud scheme that primarily victimizes senior citizens of the United States. The scheme operates by contacting elderly victims to inform them that the victims have won a large amount of money in a lottery or sweepstakes, inducing victims to pay money in advance of receiving their purported winnings. The scam operators instruct victims to send payments through wire transfers, the United States Postal Service, and private and commercial interstate carriers.

2. The United States seeks to prevent continuing and substantial injury to consumers victimized by this fraudulent scheme by bringing this action for a permanent injunction and other equitable relief under 18 U.S.C. § 1345 to enjoin the ongoing commission of wire fraud, in violation of 18 U.S.C. § 1343, and mail fraud, in violation of 18 U.S.C. § 1341.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this action under 18 U.S.C. § 1345 and 28 U.S.C. §§ 1331 and 1345.

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1) and (2).

PARTIES

5. Plaintiff is the United States.

6. Defendants are residents of Bridgeport, West Virginia. Defendants transact or have transacted business in the Northern District of West Virginia. Defendants knowingly used money transmitting services to facilitate a fraudulent lottery scheme.

DEFENDANTS' ONGOING FRAUDULENT SCHEME

7. Since at least as early as January 2011, Defendants have assisted and facilitated a large-scale lottery scheme by accepting consumer payments and forwarding proceeds to perpetrators of the scheme.

8. Telemarketers working for the scheme contact consumers either by calling them or by sending them mailings through the United States Postal Service.

9. Telemarketers working for the scheme falsely inform consumers that the consumers have won a large amount of money in a lottery or sweepstakes.

10. Telemarketers working for the scheme induce consumers to pay money in advance of receiving their purported lottery winnings.

11. Telemarketers working for the scheme claim that consumers must pay a bond, tax, or other fee totaling from hundreds to thousands of dollars in order to receive their winnings.

12. Consumers that pay this "fee" receive no prize or cash award.

13. Telemarketers working for the scheme instruct consumers to pay the “fee” by sending wire transfers to other individuals in the United States or in Jamaica.

14. Telemarketers working for the scheme instruct consumers to pay the “fee” by sending money through the United States Postal Service, and private and commercial interstate carriers to other individuals in the United States or Jamaica.

15. Since at least January 2011, numerous consumers have been victimized by the fraudulent lottery scheme facilitated by the Defendants. Defendants play a critical role in accepting unauthorized or fraudulently-induced payments initiated by the telemarketers.

16. Defendants then forward the funds received from consumers to the scheme perpetrators in Jamaica and in the United States.

17. These transactions take place through wire transmissions and through the United States Postal Service, and private and commercial interstate carriers.

18. From January 2011, until present, Defendants have facilitated this scheme by transmitting approximately \$433,913.00 to the perpetrators and other facilitators of this scheme.

DEFENDANTS’ KNOWLEDGE OF FRAUD

19. Upon information and belief, the United States alleges that Defendants have knowledge that their conduct facilitates a fraudulent scheme involving false lottery winnings involving consumer payments.

HARM TO CONSUMERS

20. Consumers suffer financial losses from the wire fraud scheme facilitated by Defendants. Consumers victimized by the scheme reside throughout the United States.

21. The scheme disproportionately affects elderly consumers.

22. Absent injunctive relief by this Court, Defendants' conduct will continue to cause injury to consumers.

COUNT I
(18 U.S.C. § 1345 – Injunctive Relief)

23. The United States re-alleges and incorporates by reference Paragraphs 1 through 22 of this Complaint as though fully set forth herein.

24. By reason of the conduct described herein, Defendants violated, are violating, and are about to violate 18 U.S.C. §§ 1343 and 1341 by executing a scheme and artifice to defraud for obtaining money or property by means of false or fraudulent representations with the intent to defraud, and, in so doing, use interstate and foreign wire communications, and the United States Postal Service and private and commercial interstate carriers.

25. Upon a showing that Defendants are committing or about to commit wire fraud or mail fraud, the United States is entitled, under 18 U.S.C. § 1345, to a permanent injunction restraining all future fraudulent conduct and any other action that this Court deems just to prevent a continuing and substantial injury to consumers.

26. As a result of the foregoing, the Court should enjoin Defendants' conduct under 18 U.S.C. § 1345.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, United States of America, requests of the Court the following relief:

That the Court issue a permanent injunction, pursuant to 18 U.S.C. § 1345, ordering that Defendants are restrained from engaging, participating, or assisting in any lottery or sweepstakes scheme or money transmitting business; and

That the Court order such other and further relief as the Court shall deem just and proper.

Respectfully submitted,

William J. Powell
United States Attorney

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

Barbara Arble and Harry Arble

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Harrison
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Danae DeMasi-Lemon, U.S. Attorney's Office
1125 Chapline Street, Suite 3000, Wheeling, WV 26003
304-234-0100

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title 18, United States Code, Section 1345
Brief description of cause:
Anti-Fraud Injunction

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
02/05/2019

SIGNATURE OF ATTORNEY OF RECORD
Danae DeMasi-Lemon

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____