

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

NICHOLAS PALUMBO, NATASHA
PALUMBO, ECOMMERCE NATIONAL,
LLC d/b/a Tollfreedeals.com, and SIP
RETAIL d/b/a sipretail.com,

Defendants.

TEMPORARY RESTRAINING
ORDER AND
ORDER TO SHOW CAUSE
20-CV-473 (EK) (RLM)

ERIC R. KOMITEE, United States District Judge:

This matter having come before the Court upon the application of Plaintiff, the UNITED STATES OF AMERICA, for a temporary restraining order pursuant to 18 U.S.C. § 1345; the Complaint; the Declarations of Marcy Ralston, Special Agent with the Social Security Administration Office of Inspector General, dated January 27 and February 3, 2020; the Declaration of Samuel Bracken, Postal Inspector with the United States Postal Inspection Service, dated January 27, 2020; the Declaration of Ashlea Bowens, Postal Inspector with the United States Postal Inspection Service, dated January 30, 2020; and the United States' letter to the Court of February 3, 2020:

WHEREUPON THE COURT, having considered the matter, finds that:

1. There is probable cause to believe that defendants NICHOLAS PALUMBO, NATASHA PALUMBO, ECOMMERCE NATIONAL, LLC d/b/a Tollfreedeals.com, and SIP RETAIL d/b/a sipretail.com ("Defendants") are violating and are about to violate 18 U.S.C. §§ 1343 and 1349. *See United States v. William Savran & Assocs., Inc.*, 755 F. Supp. 1165, 1177 (E.D.N.Y. 1991) (setting probable cause standard);

2. The alleged fraudulent scheme is ongoing. *See Savran*, 755 F. Supp. at 1178;

3. The statutory conditions for granting a temporary restraining order under 18 U.S.C. § 1345 are therefore met;

4. On January 29, 2020, Defendants were served with summonses, the Complaint, and all other documents filed in this action on January 28, 2020 (Dkt. Nos. 1, 2, 3);

5. Irreparable harm to the public is presumed in actions under 18 U.S.C. § 1345 where the statutory conditions are met. *See Savran*, 755 F. Supp. at 1179. Nonetheless, even though a showing of irreparable harm is not necessary under Section 1345 in order to obtain injunctive relief, the court finds that permitting the Defendants to continue to participate in the alleged extensive wire fraud scheme would give rise to irreparable harm; and

6. Defendants' violations will continue unless a temporary restraining order is issued.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 1345, pending a hearing and determination on the United States' application for a preliminary injunction:

Defendants, their agents, officers and employees, and all other persons and entities in active concert or participation with them, are temporarily restrained from:

- i. committing or conspiring to commit wire fraud, as defined by 18 U.S.C. §§ 1343 and 1349;
- ii. providing, or causing others to provide, call termination services for calls terminating in the United States on behalf of any company or individual listed in Attachment A, as well as any affiliate, successor, agent, or representative thereof, or any person in active concert or participation therewith;

- iii. carrying, or causing any others to carry any voice-over-internet protocol (“VoIP”) calls terminating in the United States on behalf of any company or individual listed in Attachment A, as well as any affiliate, successor, agent, or representative thereof, or any person in active concert or participation therewith;
- iv. providing, or causing others to provide, any toll-free telephone services for calls originating in the United States, including providing toll-free phone numbers, to any company or individual listed in Attachment A, or any affiliate, successor, agent, or representative thereof, or any person in active concert or participation therewith;
- v. destroying, deleting, removing, or transferring any and all business, financial, accounting, and other records concerning Defendants’ operations and the operations of any other corporate entity owned or controlled, in whole or in part, by Defendants.

IT IS HEREBY FURTHER ORDERED that, pursuant to 18 U.S.C. § 1345, within two days from Defendants’ receipt of this Temporary Restraining Order and Order to Show Cause, Defendants shall provide copies of this Temporary Restraining Order and Order to Show Cause to all companies and individuals listed in Attachment A. Within four days from Defendants’ receipt of this Temporary Restraining Order and Order to Show Cause, Defendants shall provide proof of such notice to the Court and the United States, including the name and addresses of the companies and/or individuals to whom the notice was sent, how the notice was sent, and when the notice was sent.

IT IS HEREBY FURTHER ORDERED that within four days from Defendants’ receipt of the Temporary Restraining Order and Order to Show Cause, Defendants shall provide to

Somos, Inc., in its capacity as the entity designated by the Federal Communications Commission to administer the U.S. toll-free calling system and its database, a list of toll-free numbers that Defendants have provided to any company or individual listed in Attachment A. Somos, Inc. is hereby ordered to temporarily suspend all such toll-free numbers until further order of this Court.

IT IS HEREBY FURTHER ORDERED that, pursuant to 18 U.S.C. § 1345, if Defendants receive any notification from USTelecom, any telecommunications company, or any regulatory agency identifying VoIP calls transmitted by the Defendants as fraudulent robocalls, Defendants must terminate any existing contracts with the companies or individuals that are identified as the source of those calls. Defendants must also notify the United States and the Court of the notification and of the termination of Defendants' contract with the source of the fraudulent robocalls identified in the notification, and provide a copy of any written notification, within two business days of receipt of any such notification concerning their transmission of fraudulent robocalls.

IT IS HEREBY FURTHER ORDERED that Defendants shall appear before this Court and the Honorable Eric R. Komitee, United States District Judge, in Courtroom 6G North at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201, on February 20, 2020 at 10:00 a.m. to show cause why a preliminary injunction, pursuant to Fed. R. Civ. P. 65 and as requested by the United States, should not be granted.

IT IS HEREBY FURTHER ORDERED that Defendants shall serve and file any response to the application for a preliminary injunction on or before 12:00 p.m. on February 14, 2020.

SO ORDERED this 2:45^{pm} hour of February 4, 2020.


ERIC R. KOMITEE
United States District Judge