

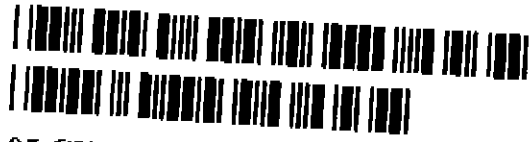
The Hon. Marsha J. Pechman

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

BY



05-CV-01739-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JOHN RAYMOND SALVATOR BEZEREDI,
individually and doing business as DOMINION
INVESTMENTS, EUROBOND FIDELITY LTD.,
and IMPERIAL INVESTMENTS,

Defendant.

Civil No. CV05-1739P

**CORRECTED
FINAL JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF
~~(PROPOSED)~~**

NOTE ON MOTION
CALENDAR: March 9, 2007

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), has filed a motion for summary judgment as to Defendant John Raymond Salvator Bezeredi ("Bezeredi" or "Defendant"), individually and doing business as Dominion Investments ("Dominion"), Eurobond Fidelity Ltd. ("Eurobond"), and Imperial Investments ("Imperial"), pursuant to Rule 56(c) of the Federal Rules of Civil Procedure. This Court, having considered the arguments, pleadings, declarations, exhibits, and memoranda of the parties, and now being fully advised in the premises, hereby grants the FTC's Motion for Summary Judgment. The Court makes the following findings and enters the following Order for Permanent Injunction:

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b. Pursuant to this section, the Commission has the authority to seek the relief contained herein.

1 2. The Commission's Complaint states claims upon which relief may be granted
2 against Defendant under Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act
3 ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 57b, and the Telemarketing and Consumer Fraud
4 and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*

5 3. This Court has jurisdiction over the subject matter of this case and all parties
6 hereto. Venue in the Western District of Washington is proper.

7 4. The acts and practices of the Defendant are in or affecting commerce, as defined
8 in Section 4 of the FTC Act, 15 U.S.C. § 44.

9 5. Uncontroverted evidence establishes that Defendant falsely represented, expressly
10 or by implication, directly or through telemarketers he employed, that consumers who purchased
11 from, or paid fees to, Dominion, Eurobond, or Imperial, would receive regular cash payments,
12 would be entered in monthly drawings to win cash prizes, or would have a high likelihood of
13 receiving substantial cash winnings.

14 6. Uncontroverted evidence establishes that Defendant sent consumers lottery
15 materials representing a chance to receive prizes in a drawing.

16 7. Uncontroverted evidence establishes that Defendant failed to disclose to
17 consumers the material fact that the sale and trafficking in foreign lotteries or similar schemes is
18 a crime in the United States.

19 8. Uncontroverted evidence establishes that consumers relied on the material
20 misrepresentations and omissions made by Defendant and paid him at least
21 \$4,755,363.00 (USD).

22 9. Uncontroverted evidence establishes that Defendant initiated, or caused others to
23 initiate, outbound telephone calls to persons' telephone numbers listed on the National Do Not
24 Call Registry.

25 10. Uncontroverted evidence establishes that Defendant initiated, or caused others to
26 initiate, outbound telephone calls to telephone numbers within given area codes without first
27 paying the required annual fee for access to the telephone numbers within those area codes that
28

1 are included in the National Do Not Call Registry

2 11. Therefore, there is no genuine issue as to any material fact concerning the liability
3 of Bczcredi for the illegal practices charged in the Complaint.

4 12. Defendant violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the
5 Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, including 16 C.F.R. §§ 310.3(a)(1)(ii),
6 310.3(a)(4), 310.4(b)(1)(iii)(B), and 310.8.

7 13. Plaintiff is entitled to judgment as a matter of law pursuant to Rule 56(c) of the
8 Federal Rules of Civil Procedure.

9 14. Plaintiff is entitled to judgment against Defendant in the amount of
10 \$4,755,363.00 (USD).

11 15. There is a reasonable likelihood that the Defendant would continue to engage in
12 the activities alleged in the complaint unless permanently enjoined from such acts and practices.

13 16. Entry of this Order is in the public interest.

14 DEFINITIONS

15 For purposes of this Order, the following definitions shall apply:

16 A. "Assisting" means providing substantial assistance or support to any
17 person. For purposes of this Order, "providing substantial assistance or support" includes, but is
18 not limited to: (a) preparing, printing, or transmitting invoices; (b) recording sales solicitations
19 or verifying sales; (c) performing customer service functions including, but not limited to,
20 receiving or responding to consumer complaints, obtaining or receiving identifying and financial
21 information from consumers, and communicating with consumers on behalf of a seller or
22 telemarketer; (d) developing, providing, or arranging for the development or provision of sales
23 scripts or any other marketing material; (e) verifying, processing, fulfilling, or arranging for the
24 fulfillment of orders; (f) developing, providing, or arranging for the provision of lists of potential
25 customers; (g) collecting or arranging for the collection of accounts receivable or other amounts
26 owed; (h) providing or arranging for the provision of post office boxes or the services of
27 commercial mail receiving agencies; or (i) performing or providing marketing services of any
28 kind.

1 B. "Defendant" means John Raymond Salvator Bezcredi.

2 C. "Document" is synonymous in meaning and equal in scope to the usage of the
3 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
4 photographs, audio and video recordings, computer records, and other data compilations from
5 which information can be obtained and translated, if necessary, through detection devices into
6 reasonably usable form. A draft or non-identical copy is a separate document within the meaning
7 of the term.

8 D. "Material" means likely to affect a person's choice of, or conduct regarding,
9 goods or services.

10 E. "Person" means any natural person and any organization or other legal entity,
11 including a corporation, partnership, sole proprietorship, limited liability company, association,
12 cooperative, government agency, or any other group or combination acting as an entity.

13 **ORDER**

14 **I.**

15 **PROHIBITED PRACTICES**

16 **IT IS THEREFORE ORDERED** that the Defendant, and his officers, agents, servants,
17 employees, and attorneys, and all other persons or entities in active concert or participation with
18 him who receive actual notice of this Order by personal service or otherwise, whether acting
19 directly or through any corporation, subsidiary, division or other device, are hereby permanently
20 restrained and enjoined from:

21 A. Promoting, offering for sale, or selling, directly or indirectly, any interests,
22 holdings, shares or registrations in any program that purportedly includes a lottery, random
23 drawing, game of chance, prize, or prize promotion feature (as "prize" and "prize promotion" are
24 defined in the TSR, 16 C.F.R. § 310.2(x) and (y)) to any consumer;

25 B. Misrepresenting or omitting any fact material to a consumer's decision to
26 purchase the Defendant's products or services, in connection with the advertising, marketing,
27 proposed sale, or sale of any product or service to any consumer, or in the course of billing,
28 attempting to collect, or collecting money from any consumer;

1 C. Violating any provision of the TSR, including, but not limited to, the following, in
2 connection with telemarketing to any consumer, as "telemarketing" is defined in the TSR:

- 3 1. Making a false or misleading statement to induce any person to pay for any
4 good or service in violation of Section 310.3(a)(4) of the TSR, 16 C.F.R.
5 § 310.3(a)(4);
- 6 2. Failing to disclose, in a clear and conspicuous manner, before a consumer
7 pays for any goods or services, all material restrictions, limitations, or
8 conditions to receive those goods or services, in violation of Section
9 310.3(a)(1)(ii) of the TSR, 16 C.F.R. § 310.3(a)(1)(ii);
- 10 3. Initiating or causing others to initiate outbound telephone calls to persons'
11 telephone numbers on the National Do Not Call Registry, in violation of
12 Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B);
13 and
- 14 4. Initiating or causing others to initiate outbound telephone calls to any
15 person whose telephone number is within a given area code without first
16 paying the annual fee required by 16 C.F.R. § 310.8(c) for access to the
17 telephone numbers within that area code that are included in the National
18 Do Not Call Registry, in violation of Section 310.8(a)-(b) of the TSR,
19 16 C.F.R. § 310.8(a)-(b).

20 D. Assisting others who violate any provision of Section I of this Order.

21 **II.**

22 **MONITORING COMPLIANCE OF SALES PERSONNEL**

23 **IT IS FURTHER ORDERED** that Defendant, in connection with any business where
24 (1) Defendant is the majority owner of the business or directly or indirectly manages or controls
25 the business, and (2) the business is engaged in telemarketing or in assisting others engaged in
26 said business, is hereby permanently restrained and enjoined from:

27 A. Failing to take reasonable steps sufficient to monitor and ensure that all
28 employees and independent contractors engaged in sales or other customer service functions

1 comply with Section I of this Order. Such steps shall include adequate monitoring of sales
2 presentations or other calls with consumers, and shall also include, at a minimum, the following:

3 (1) listening to the oral representations made by persons engaged in sales or other customer
4 service functions; (2) establishing a procedure for receiving and responding to consumer
5 complaints; and (3) ascertaining the number and nature of consumer complaints regarding
6 transactions in which each employee or independent contractor is involved; *provided* that this
7 Section does not authorize or require the Defendant to take any steps that violate any federal,
8 state, or local laws;

9 B. Failing promptly to investigate fully any consumer complaint received by any
10 business to which this Section applies; and

11 C. Failing to take corrective action with respect to any sales person who Defendant
12 determines is not complying with this Order, which may include training, disciplining, and/or
13 terminating such sales person.

14 **III.**

15 **DISCLOSURE OF CONSUMER LISTS**

16 **IT IS FURTHER ORDERED** that Defendant and his officers, agents, servants,
17 employees, and attorneys, and all other persons or entities in active concert or participation with
18 him who receive actual notice of this Order by personal service or otherwise, whether acting
19 directly or through any corporation, subsidiary, division or other device, are permanently
20 restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the
21 name, address, telephone number, credit card number, bank account number, e-mail address, or
22 other identifying information of any person who paid any money to Defendant, at any time prior
23 to entry of this order, in connection with Defendant's promoting, offering for sale, selling, or
24 participating in the sale of, directly or indirectly, any interests, holdings, or registrations in any
25 foreign lottery or in any bond program with a lottery or chance feature. *Provided, however,* that
26 Defendant may disclose such identifying information to a law enforcement agency or as required
27 by any law, regulation, or court order.

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IV.

CONSUMER REDRESS

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered against Defendant in the amount of \$4,755,363.00 (USD). Payment shall be made within ten (10) days of entry of this Order by certified check or other guaranteed funds made payable to and delivered to the Commission, or by wire transfer in accordance with directions provided by the Commission. All such funds shall be deposited into a fund administered by the Commission or its designated agent to be used for equitable relief, including, but not limited to, consumer restitution and any attendant expenses for the administration of any restitution fund. Defendant shall cooperate in identifying and locating consumers entitled to restitution under this Order. In the event that direct restitution to consumers is wholly or partially impracticable or funds remain after restitution is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the defendant's practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendant shall be notified as to how the funds are disbursed but shall have no right to challenge the Commission's choice of remedies under this Section.

B. If defendant fails to pay the Commission the restitution amount as set forth above, interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.

V.

DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that five for a period of (5) years from the date of entry of this Order, Defendant shall deliver copies of the Order as directed below:

A. Defendant as control person: For any business that Defendant controls, directly or indirectly, or in which Defendant has a majority ownership interest, Defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant must also deliver copies of this Order to all employees, agents, and representatives of that

1 business who engage in conduct related to the subject matter of the Order. For current personnel,
2 delivery shall be within (5) days of service of this Order upon Defendant. For new personnel,
3 delivery shall occur prior to them assuming their responsibilities;

4 B. Defendant as employee or non-control person: For any business in which
5 Defendant is not a controlling person of a business but otherwise engages in conduct related to
6 the subject matter of this Order, Defendant must deliver a copy of this Order to all principals and
7 managers of such business before engaging in such conduct; and

8 C. Defendant must secure a signed and dated statement acknowledging receipt of the
9 Order, within thirty days of delivery, from all persons receiving a copy of the Order pursuant to
10 this Section.

11 **VI.**

12 **COMPLIANCE REPORTING BY DEFENDANT**

13 **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this
14 Order may be monitored:

15 A. For a period of five (5) years from the date of entry of this Order,

16 1. Defendant shall notify the Commission of the following:

17 a. Any changes in Defendant's residence, mailing addresses, and
18 telephone numbers, within ten (10) days of the date of such
19 change;

20 b. Any changes in Defendant's employment status (including self-
21 employment) within ten (10) days of the date of such change. Such
22 notice shall include the name and address of each business that
23 Defendant is affiliated with, employed by, or performs services for;
24 a statement of the nature of the business; and a statement of
25 Defendant's duties and responsibilities in connection with the
26 business; and

27 c. Any changes in Defendant's name or use of any aliases or fictitious
28 names;

1 B. One hundred eighty (180) days after the date of entry of this Order, Defendant
2 shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail
3 the manner and form in which he has complied and is complying with this Order. This report
4 shall include, but not be limited to:

- 5 1. Any changes required to be reported pursuant to subsection A above; and
6 2. A copy of each acknowledgment of receipt of this Order obtained by
7 Defendant pursuant to Section V;

8 C. For the purposes of this Order, Defendant shall, unless otherwise directed by the
9 Commission's authorized representatives, mail all written notifications to the Commission to:

10 Associate Director for Enforcement
11 Federal Trade Commission
12 601 New Jersey Ave., NW
13 Washington, DC 20580

14 Re: *FTC v. John Raymond Salvator Bezeredi*, Civil Action No. CV05-1739P; and

15 D. For purposes of the compliance reporting required by this Section, the
16 Commission is authorized to communicate directly with Defendant.

17 **VII.**

18 **COMPLIANCE MONITORING**

19 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
20 compliance with any provision of this Order,

21 A. Within ten (10) days of receipt of written notice from a representative of the
22 Commission, Defendant shall submit additional written reports, sworn to under penalty of
23 perjury; produce documents for inspection and copying; appear for deposition; and/or provide
24 entry during normal business hours to any business location in the U.S. in Defendant's
25 possession or direct or indirect control to inspect the business operation;

26 B. In addition, the Commission is authorized to monitor compliance with this Order
27 by all other lawful means, including but not limited to the following:

- 28 1. obtaining discovery from any person, without further leave of court, using
the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

1 2. posing as consumers and suppliers to Defendant or his employees, or any
2 other entity managed or controlled in whole or in part by Defendant,
3 without the necessity of identification or prior notice;

4 C. Defendant shall permit representatives of the Commission to interview any
5 employer, consultant, independent contractor, representative, agent, or employee who has agreed
6 to such an interview, relating in any way to any conduct subject to this Order. The person
7 interviewed may have counsel present.

8 *Provided, however,* that nothing in this Order shall limit the Commission's lawful use of
9 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1,
10 to obtain any documentary material, tangible things, testimony, or information relevant to unfair
11 or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C.
12 § 45(a)(1)).

13 **VIII.**

14 **RECORD KEEPING PROVISIONS**

15 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry
16 of this Order, Defendant and his agents, employees, officers, servants, corporations, successors,
17 and assigns, and those persons in active concert or participation with him who receive actual
18 notice of this Order by personal service or otherwise, are hereby permanently restrained and
19 enjoined from failing to create and retain the following records, unless otherwise specified, in
20 connection with any business where (1) Defendant is the majority owner of the business or
21 directly or indirectly manages or controls the business, and (2) the business is engaged in
22 telemarketing or in assisting others engaged in said business:

23 A. Accounting records that reflect the cost of goods or services sold, revenues
24 generated, and the disbursement of such revenues;

25 B. Personnel records accurately reflecting: the name, address, and telephone number
26 of each person employed in any capacity by such business, including as an independent
27 contractor; that person's job title or position; the date upon which the person commenced work;
28 and the date and reason for the person's termination, if applicable;

1 C. Customer files containing the names, addresses, phone numbers, dollar amounts
2 paid, quantity of items or services purchased, and description of items or services purchased, to
3 the extent such information is obtained in the ordinary course of business;

4 D. Complaints and refund requests (whether received directly, indirectly, or through
5 any third party) and any responses to those complaints or requests;

6 E. Copies of all sales scripts, training materials, advertisements, or other marketing
7 materials; and

8 F. All records and documents necessary to demonstrate full compliance with each
9 provision of this Order, including but not limited to copies of acknowledgments of receipt of this
10 Order, required by Section V, and all reports submitted to the FTC pursuant to Section VI.

11 **IX.**

12 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

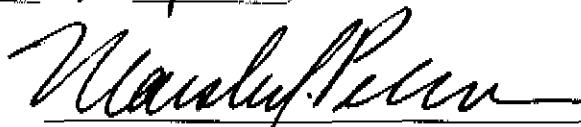
13 IT IS FURTHER ORDERED that Defendant, within five (5) business days of receipt of
14 this Order as entered by the Court, must submit to the Commission a truthful sworn statement
15 acknowledging receipt of this Order.

16 **X.**

17 **RETENTION OF JURISDICTION**

18 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for
19 purposes of construction, modification and enforcement of this Order.

20 **SO ORDERED**, this 3 day of April, 2007.

21 
22 THE HONORABLE MARSHA J. PECHMAN
23 UNITED STATES DISTRICT JUDGE

24 Submitted by:

25 s/ Mary T. Benfield
26 Mary T. Benfield, WSBA #18835
27 Maxine R. Stansell, WSBA #9418
28 Attorneys for Plaintiff
Federal Trade Commission
915 Second Ave., Ste. 2896
Seattle, WA 98174