

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-24497-CV-WILLIAMS

UNITED STATES OF AMERICA,

Plaintiff,

v.

FARHAN KHAN, *et al.*,

Defendants.

**EX PARTE TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE AND
APPOINTMENT OF TEMPORARY RECEIVER**

THIS MATTER is before the Court on Plaintiff the United States of America's ("**Plaintiff**") *Ex Parte* Motion for a Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue against Defendants Farhan Khan, Melinda Petit-Homme, Altitude Processing, Inc., Jeremy Todd Briley, RSC LLC, YO! Inc., Christopher Foufas, and Brandon Hahn (DE 4) ("**TRO Application**"). Upon review of the TRO Application and the record, it is **ORDERED AND ADJUDGED** that the TRO Application is **GRANTED**.

I. BACKGROUND

A. Findings of fact

The Court, having considered the Complaint (DE 1), the TRO Application (DE 4), the declarations, exhibits, and memorandum filed in support, and the record, finds that:

- 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 to this action and that venue in this district is proper.

- 2) There is good cause to believe that Defendants have engaged in or are likely to engage in acts or practices that violate 18 U.S.C. §§ 1343, 1344 and 1349, and that the United States is, therefore, likely to prevail on the merits.
- 3) There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of 18 U.S.C. §§ 1343, 1344 and 1349 unless they are immediately restrained and enjoined by order of this Court.
- 4) Injunctive relief to protect the public interest is expressly authorized by 18 U.S.C. § 1345. As such, neither a specific finding of irreparable harm, a showing of the inadequacy of other remedies at law, nor a balancing of the Parties' interests is necessary prior to the issuance of a preliminary injunction. *See United States v. Lindvahl*, 356 F. Supp. 2d 1289, 1290–91 (S.D. Fla. 2005). Nevertheless, even though a showing of irreparable harm is not necessary under Section 1345 in order to obtain injunctive relief, the Court has found that permitting the Defendants to continue to perpetrate the alleged mail and wire fraud scheme would constitute irreparable harm.
- 5) The statutory conditions for granting a temporary restraining order under 18 U.S.C. § 1345 are therefore met.
- 6) The Court further finds that advance notice to Defendants will result in immediate and irreparable injury, loss, or damage.
- 7) Defendants' violations will continue unless a temporary restraining order is issued.
- 8) There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective relief will occur from the transfer, destruction,

or other dissipation or concealment by Defendants of their assets or records, unless Defendants are immediately restrained and enjoined by Order of this Court; and that, in accordance with Federal Rule of Civil Procedure 65(b) and Local Rules 5.4(b) and 5.4(d), interests of justice require that this Order be granted without prior notice to Defendants. Thus, there is good cause for relieving the United States of the duty to provide Defendants with prior notice of this Motion for a Temporary Restraining Order.

- 9) Good cause exists for freezing the assets of Defendants Altitude Processing, Inc., and RSC LLC.
- 10) Good cause exists for appointing a temporary receiver over Defendants Altitude Processing, Inc. and RSC LLC and granting the receiver access to both entities' business premises.

B. Definitions

For the purpose of this Order, the following definitions shall apply:

- 1) “**Asset**” means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.
- 2) “**Altitude Processing**” means Altitude Processing, Inc.
- 3) “**RSC**” means RSC LLC.
- 4) “**Corporate Entities**” means Altitude Processing, Inc., RSC LLC, RSC of Florida LLC, RSC of Indiana, LLC, and YO! Inc.
- 5) “**Defendant(s)**” means all the individuals and entities named as a defendant in the Complaint, individually, collectively, or in any combination.

- 6) “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a).
- 7) “**Receiver**” means the temporary receiver appointed in Section II(C) of this Order and any deputy receivers that shall be named by the temporary receiver.
- 8) “**Receivership Entities**” means Altitude Processing, Inc. and RSC LLC as well as any other entity the Receiver determines is controlled or owned by Altitude Processing, Inc. or RSC LLC.
- 9) “**Receivership Property**” means any Assets, wherever located, that are: (1) owned, controlled, or held by or for the benefit of the Receivership Entities, in whole or in part; (2) in the actual or constructive possession of the Receivership Entities; or (3) owned, controlled, or held by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, trust, or other entity directly or indirectly owned or controlled by the Receivership Entities.

II. DISCUSSION

A. *Prohibited activities*

Defendants, Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are temporarily restrained and enjoined from:

- 1) Committing or conspiring to commit wire fraud, as defined by 18 U.S.C. §§ 1343 and 1349;
- 2) Committing or conspiring to commit bank fraud, as defined by 18 U.S.C. §§

1344 and 1349;

- 3) Charging or debiting any person or entity on behalf of any Defendant entities or for the purported purchase of any Defendant entities' services;
- 4) Debiting funds from consumers' bank accounts without their prior authorization;
- 5) Incorporating or creating any corporate entity for the purpose of debiting funds from consumers' bank accounts without prior authorization;
- 6) Selling, renting, leasing, transferring or otherwise disclosing the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, IP address, or other financial or identifying information of any person that Defendant obtained in connection with any activity that pertains to the subject matter of this Order;
- 7) Creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, without first providing the United States 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; and
- 8) Destroying, deleting, moving, 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; and failing to create and maintain Documents that in reasonable detail, accurately, fairly, and completely reflect Defendants' incomes, disbursements, transactions, and use of Defendants' Assets.

B. Asset freeze

Except as otherwise specified herein, the Assets of the Receivership Entities are frozen until further notice of this Court. Accordingly, all persons and entities with direct or indirect control over any of the Receivership Entities, including any financial or brokerage institution, bank, payment processor, business entity, or person, who receives actual notice of this Order (by service or otherwise) shall:

- 1) Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any Asset, as well as all Documents or other property related to such Assets, except by further order of this Court; and
- 2) Deny any person access to any safe deposit box, commercial mailbox, or storage facility that is titled in the name of any Receivership Entity, or otherwise subject to access by any Receivership Entity.

The Corporate Entities, Receivership Entities, and individual Defendants, their officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order (by service or otherwise), are hereby temporarily restrained and enjoined from transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any of a Receivership Entity's Assets.

Each Corporate Entity and individual Defendant shall provide to the United States and the Receiver, within seven (7) days of receiving a copy of this Order, a list of all

financial or brokerage institutions, banks, or other entities at which they maintain savings, checking, investment, merchant, or other accounts.

This Section does not prohibit any transfers to the Receiver required by this Order.

C. Receivership

1. Appointment of Receiver

Stephanie A. Casey is appointed as temporary receiver of the Receivership Entities with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

2. Receivership powers and duties

The Receiver is directed and authorized to accomplish the following:

- 1) Take exclusive custody, control, and possession of all Receivership Property, and Documents and Assets in the possession, custody, or control of any Receivership Entity, wherever situated, except any assets seized by the United States pursuant to a valid order of a court. The Receiver shall have full power to divert mail, and to sue for, collect, receive, take in possession, hold, and manage all Receivership Property; provided, however, the Receiver shall not attempt to collect any amount from a person if the Receiver believes the person was a victim of the wire or bank fraud scheme alleged in the Complaint in this matter;
- 2) The Receiver shall also assume control over all of the Receivership Entities' ongoing business operations, including those in which the Receivership Entities have a controlling interest. With regard to these business operations, the Receiver shall:

- i. Assume full and exclusive control of the operations of the Receivership Entities, removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent of the Receivership Entities from control of, management of, or participation in, the business affairs of each of the Receivership Entities;
- ii. Take all steps necessary or desirable to secure the business premises of the Receivership Entities. Such steps may include, but are not limited to, the following as the Receiver deems necessary or advisable:
 - (i) completing a written inventory of all assets;
 - (ii) obtaining pertinent information from all employees and other agents and all accrued and unpaid commissions and compensation of each such employee or agent;
 - (iii) videotaping all portions of the above-referenced business locations;
 - (iv) securing the above-referenced business locations by changing the locks and disconnecting any Internet service or other means of access to the computer or other records maintained at the locations;
- iii. Manage, administer, and conduct the operations of the ongoing legitimate business operations of the Receivership Entities, until further Order of this Court, by performing all incidental acts that the Receiver deems to be advisable or necessary;
- iv. Choose, engage, and employ attorneys, accountants, appraisers, property managers, and other independent contractors and technical specialists or other professionals, with regard to the operations of the

Receivership Entities, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

- v. Defend, compromise, or settle legal actions in which the Receiver or any of the Receivership Entities is a party commenced prior to or subsequent to this Order with the authorization of this Court. The Receiver may waive attorney-client privilege held by any of the Receivership Entities;
- vi. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate;
- vii. 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, and to incur, or authorize the making of, such agreements as may be necessary and advisable in discharging his or her duties as Receiver. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Entities prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of the Receivership Entities, such as rental payments;
- viii. Maintain accurate records of all receipts and expenditures incurred as Receiver;
- ix. Coordinate with the United States and court personnel as needed to ensure that any Assets subject to the terms of this Order are available

for criminal restitution, forfeiture, or other legal remedies in proceedings commenced by or on behalf of the United States;

- x. Cooperate with reasonable requests for information or assistance from any state or federal civil or criminal law enforcement agency; and
- xi. File a status report every 60 days with the Court.

The Receiver shall have the power and authority to perform any other act necessary or desirable to accomplish any of the foregoing.

3. Cooperation with the Receiver

Defendants; Receivership Entities; Defendants' or Receivership Entities' officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them; and any other person with possession, custody, or control of Receivership Property or records relating to Receivership Property, or other records relating to the Receivership Entities; who receive actual notice of this Order, shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names, passwords, and all other means required to access any computers, electronic devices, mobile devices, machines (onsite or remotely), and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Receivership Entity that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the Receivership Property and sales of the Receivership Entities.

4. Transfer of Receivership Property to Receiver

Defendants and any other person with possession, custody or control of Receivership Property shall, upon notice of this Order by personal service or otherwise, fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Receivership Property. This shall include, but not be limited to, immediately providing, transferring, or delivering to the Receiver possession, custody, and control of:

- 1) All Assets held by or for the benefit of the Receivership Entities;
- 2) All Documents or Assets associated with credits, debits, or charges made on behalf of any Receivership Entity, wherever situated, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities;
- 3) All Documents of or pertaining to the Receivership Entities;
- 4) All computers, electronic devices, mobile devices, and machines used to conduct the business of the Receivership Entities;
- 5) All keys, codes, user names, passwords, and all other means of authentication necessary to gain or to secure access to any Assets or Documents of or pertaining to the Receivership Entities, including access to their business premises, means of communication, mobile phones, accounts, computer systems (onsite and remote), electronic data hosts, or other property.

Nothing in this Section shall be construed to require the United States or a law enforcement agency to transfer Assets, Receivership Property, or Documents to the Receiver that it has seized pursuant to a valid order of a court.

In the event that any person or entity fails to deliver or transfer any Asset, Document, or otherwise fails to comply with any provision of this Section, the Receiver may file an Affidavit of Non-Compliance regarding the failure and a motion seeking compliance or a contempt citation.

5. Provision of information to Receiver

The Receivership Entities shall immediately provide to the Receiver:

- 1) A list of all Assets and accounts of the Receivership Entities that are held in any name other than the name of a Receivership Entity, or by any person or entity other than a Receivership Entity;
- 2) A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Receivership Entities, or who have been associated or done business with the Receivership Entities; and
- 3) A description of any documents covered by attorney-client privilege or attorney work product, including files where such documents are likely to be located, authors or recipients of such documents, and search terms likely to identify such electronic documents.

6. Duties of Asset holders and other third parties

Any financial or brokerage institution, bank, payment processor, business entity, or person who receives actual notice of this Order (by service or otherwise), who has held the Receivership Entities' Assets, through an account or otherwise, shall:

- 1) Provide the Receiver, within ten business days of notice of this Order, a statement setting forth: (1) the identification of each such account or Asset; (2) the balance of each such account, or a description of the nature and value of each such Asset; and (3) the identification of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Receivership Entity, or is otherwise subject to access by any Receivership Entity;
- 2) Upon the Receiver's request, promptly provide the Receiver with copies of all records or other Documents pertaining to any account covered by this Section or Asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail boxes, and storage facilities; and
- 3) Cooperate with all reasonable requests of the Receiver relating to implementation of this Order, including transferring funds at the Receiver's direction and producing records related to all accounts owned by each of the Defendants.

7. Compensation of Receiver

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 or in the possession or control of, or which may be received by, the Receivership Entities.

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 this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

8. Receiver's bond

Pursuant to Federal Rule of Civil Procedure 65(c), the Receiver is not required to post a bond with the Clerk of Court.

D. Distribution of Order by Defendants

Defendants shall immediately provide a copy of this Order to each affiliate, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of any Defendant, and shall, within ten (10) days from the date the Defendant receives notice of this Order, provide the United States with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Defendants shall not take any action that would encourage officers, agents, members, 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 Order or believe that they are not bound by its provisions.

E. Service of this Order

The United States is directed to provide notice to Defendants and serve the Defendants with summonses, copies of the complaint, and copies of this Order as soon as practicably possible. If Defendants take efforts to evade service, the United States may provide notice to those Defendants via email.

F. Preliminary Injunction Hearing

Pursuant to Federal Rule of Civil Procedure 65(b), a hearing is set before United States Magistrate Judge Goodman and the request for preliminary injunction (DE 4) is referred to Judge Goodman for a report and recommendation. **The hearing is set before Judge Goodman in Courtroom 11-3 of the James Lawrence King Justice Building, 99 N.E. 4th Street, Miami, FL 33132, on December 14, 2023, at 10:00 a.m. EST**, at which time Defendants and/or any other affected persons may challenge the appropriateness of this Order and move to dissolve the same and at which time the Court will hear argument on Plaintiff's requested preliminary injunction.

Defendants shall file with the Court and serve on the United States any responsive pleadings, affidavits, motions, expert reports or declarations, or legal memoranda by **December 6, 2023**. The United States may file a reply or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on Defendants or Defendants' counsel by **December 11, 2023**. The above dates may be revised upon stipulation by all Parties and approval of this Court.

Defendants are on notice that failure to appear at the hearing may result in the imposition of a preliminary injunction against them pursuant to Federal Rule of Civil Procedure 65 and this Court's inherent authority.

G. Duration of the Order

This Order shall expire 14 days from the date of entry noted below, unless within such time, the Order is extended for an additional period pursuant to Federal Rule of Civil Procedure 65(b)(2).

H. Retention of jurisdiction

This Court shall retain jurisdiction of this matter for all purposes.

III. CONCLUSION

For the foregoing reasons, it is **ORDERED AND ADJUDGED** that Plaintiff's TRO Application (DE 4) is **GRANTED**.

DONE AND ORDERED in Chambers in Miami, Florida on this 30th day of November, 2023.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE