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Clerk, U.S. District Court
Western District of Texas
by: Y. Lujan
Deputy Clerk

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION

UNITED STATES OF AMERICA	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case no: P:20-cv-046
	§	
MICHAEL MARC TRAVALINO	§	
aka "MARK WHITE EAGLE"	§	
	§	
Defendant	§	

COMPLAINT FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUCTION AND PERMANENT INJUNCTION

For its Complaint against Michael Marc Travalino, aka "Mark White Eagle" ("Defendant"), the United States of America ("United States") alleges as follows:

INTRODUCTION

1. Defendant is engaging in and facilitating a predatory mail and wire fraud scheme exploiting the current COVID-19 pandemic.[1]

2. Defendant is the owner and operator of the website "whiteeaglenativeherbs.net," wherein Defendant is selling products online that are purported to treat and cure COVID-19, other illnesses and diseases such as cancer, blood clots, and skin disorders.

3. The claims made personally by Defendant and through the website "whiteeaglenativeherbs.net" are false.

[1] There is currently a global outbreak of respiratory disease caused by a novel coronavirus that has been named "severe acute respiratory syndrome coronavirus 2" (SARS-CoV-2). The disease caused by the virus has been named "Coronavirus Disease 2019" (COVID-19).

4. As determined by the World Health Organization ("WHO"), the United States Centers for Disease Control and Prevention ("CDC") and the United States Food and Drug Administration ("FDA"), there are, as of yet, no known or authorized cures for COVID-19.

5. The purpose of the website is to induce victims to pay Defendant, and those working in concert with him, significant sums for products that are falsely represented to be effective treatments for various diseases and human pathogens, including coronaviruses. Additionally, the Defendant accepts orders over the phone and in person at his store, where he also accepts credit card payments.

6. The web site whiteeaglenativeherbs.net is controlled and operated by Defendant. The reseller web host for this domain is GoDaddy.com, LLC, headquartered at 14455 North Hayden Rd, Ste. 219, Scottsdale, AZ 85260.

7. The United States seeks to prevent continuing and substantial injury to victims of this fraudulent scheme by bringing this civil action under 18 U.S.C. § 1345 to enjoin Defendant's ongoing mail and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343, respectively.

JURISDICTION AND VENUE

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

9. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because Defendant resides in this district. Venue is also proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district.

THE PARTIES

10. Plaintiff is the United States of America.

11. Defendant, Michael Marc Travalino, acting alone or in concert with others, operated the website "whiteeaglenativeherbs.net" who has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

FRAUDULENT SCHEME

12. On or about April 28, 2020, the FBI, El Paso Division, received a complaint from a member of the public that Michael Travalino, who purported to be a "Medicine Man" and "Shaman," was advertising on posted flyers that he had "formulas that are proven to work and distroy [sic]" "corona virus." Next to the flyers were business cards, in both English and Spanish which provided contact information for "White Eagle." The contact information included the phone number (575) 910-0849, address P.O. Box 1341, Alpine, TX 79831, web address www.whiteeaglenativeherbs.net and email address WhiteEagle@whiteeaglenativeherbs.net.

13. The phone number (575) 910-0849 is registered to Michael M. Travalino, PO Box 1341, Alpine, TX 79831.

14. On or about May 4, 2020, FBI Special Agent Alice D. Downie, from a computer located in Alpine Texas, visited the website www.whiteeaglenativeherbs.net and observed a tab on the website which read "WEB STORE." Upon clicking on this tab, SA Downie observed approximately 73 products for sale, including:

> "YAHWEH (All plagues, viruses, fungus, Corona Virus. $150.00,"
> "KOLON KLEEN, Works Against Corona Virus $38.00,"
> "MASKA MIAKODA, Works With Yaweh Formula for Corona Virus. $75.00" and
> SHAR MAR FORMULA (Respiratory & Skin Disorders) $100.00"

15. On or about May 28, 2020, SA Downie selected an item from the "WEB STORE" which placed the item in a virtual "Cart." SA Downie was then able to checkout to order the item and was directed to pay for the item using PayPal.

16. On or about May 4, 2020, an FDA Special Agent, who was working in a covert capacity, called (575) 910-0849 (the phone number registered to Defendant) and a man answered, who identified himself as Marc White Eagle.

17. The FDA Special Agent asked if White Eagle had any medication in stock to treat the coronavirus or COVID-19. White Eagle stated he did, and directed the FDA Special Agent to his website, whiteeaglenativeherbs.net. White Eagle said to look at three items on the website that would heal all viruses: Yahweh, Shar Mar Formula, and Maska Miakoda.

18. The FDA Special Agent said his grandmother was in the hospital in another state outside of Texas, suffering from COVID-19, and the products were to treat her. White Eagle told the Special Agent to get her out of the hospital or she would die there. White Eagle said that if he could not get her out of the hospital, he should sneak some of the medicine into her water without telling the doctors.

19. White Eagle said the medicines had to be taken every day and they were 100% pure. White Eagle said he did not need to conduct an exam of the patient. If the patient took the medicine, no doctor or hospital was needed, and results would be seen right away.

20. White Eagle agreed to meet the FDA Special Agent on or about May 5, 2020 at 237 Grant Drive, Fort Davis, Texas, to sell him the medicine.

21. On or about May 5, 2020, an FDA Special Agent, working in an undercover capacity, called (575) 910-0849 and spoke to White Eagle. White Eagle provided directions to his place of business, located in the vicinity of 237 Grant Drive, Fort Davis, Texas, where they then met.

22. Based on photographs available to law enforcement, the FDA Special Agent identified White Eagle as Michael Travalino, Defendant.

23. While meeting with Defendant inside his place of business, the FDA Special Agent observed several bottles and other containers appearing to contain products he was selling along with shipping boxes and tape.

24. During the meeting, Defendant stated that he manufactured his own products from secret recipes and sold them from both his warehouse, where they were meeting, and online, to treat various diseases to include coronavirus and Ebola.

25. The FDA Special Agent purchased products totaling $460, which Defendant stated would kill the coronavirus. Defendant understood that the FDA Special Agent would be transporting these products outside of Texas. These products included Kolon Kleen, Maska Miakoda, and Yahweh.

26. Defendant provided written and verbal instructions on how to use and administer the products to patients suffering from coronavirus. Defendant said he guaranteed the FDA Special Agent's grandmother would not die if she took the products. Defendant recommended giving the products to anyone with coronavirus, and he recommended the FDA Special Agent take them as well.

27. FBI SA Downie witnessed the meeting between the FDA Special Agent and Defendant. The place of business was a portable-type storage building with a travel trailer parked next to it on the west side. A blue 2002 Chevrolet Trailblazer, Arizona license plate BB0358, registered to Defendant, was parked at the front of the building. A purple 1984 Cadillac Deville, Arizona license plate BB0016, registered to Defendant, was parked at the rear of the building.

28. On, or about, May 14, 2020, Richard Quaresima, Acting Associate Director, Division of Advertising Practices, Federal Trade Commission ("FTC") and Donald D. Ashley, Director for the Office of Compliance of FDA's Center for Drug Evaluation and Research

("CDER") sent a Warning Letter to Defendant at his known email address of whiteeagle@whiteeaglenativeherbs.net. The Warning Letter referenced the unapproved and misbranded products related to coronavirus disease 2019 (COVID-19) being advertised for sale on his web site www.whiteeaglenativeherbs.net.

29. This Warning Letter specifically instructed Defendant to take immediate action to cease the sale of such unapproved and unauthorized products for the mitigation, prevention, treatment, diagnosis, or cure of COVID-19 on his website because Defendant is falsely representing his products as an effective treatment for that disease.

30. In addition, this Warning Letter instructed Defendant to complete specific steps to correct the violations within 48 hours.

31. This letter was also posted to the public on the FDA website https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/white-eagle-native-herbs-607744-05142020.

32. On May 18, 2020, a read receipt was received by FDA Consumer Safety personnel at approximately 11:09 a.m. Eastern Time, indicating the email had been opened.

33. On May 20, 2020, at approximately 2:23 p.m., Mountain Time, an FDA Special Agent navigated to Defendant's website www.whiteeaglenativeherbs.net to see if the site still advertised products for sale that were specifically listed as Unapproved and Misbranded Products Related to Coronavirus Disease 2019 (COVID-19) in the Warning Letter issued on May 14, 2020.

34. After confirming the products were still advertised for sale, an FDA Special Agent, in an undercover capacity, purchased the following products offered for sale through the website www.whiteeaglenativeherbs.net, with claims to treat and/or cure "Corona Virus":

YAHWEH Capsules
KOLON KLEEN powder
MASKA MIAKODA liquid
YAHWEH Liquid

35. After completing the purchase, the FDA Special Agent was issued Receipt Number # 9L126369JJ9399124 through the same website.

36. On May 20, 2020, at approximately 3:10 p.m., Mountain Time, an FDA Special Agent, acting in an undercover capacity, called Defendant on his cell phone, 575-910-0849, to confirm he had received the online order of products. Defendant stated he was not home and had not received the order, but would check on it when he returned home.

37. On May 20, 2020, at approximately 7:47 p.m., Mountain Time, an FDA Special Agent received a text message from Defendant's phone, 575-910-0849. This text stated the following:

> Ur box was sent off today to Indian Hills Co 80454 today an Expected Delivery Day is tuesday 05/56/2020 Ur Tracking No. Is: 9505514204560142221644. Thanks for your purchase by Marc Whiteeagle at 575-910-0849.

38. On May 22, 2020, at approximately 9:58 a.m., Mountain Time, an FDA Special Agent, acting in an undercover capacity, called Defendant on his cell phone, 575-910-0849, and asked Defendant if he had indeed received the order for products. During this call, Defendant stated he had sent a text giving the tracking number and that he had indeed shipped out the products on May 20, 2020.

39. On or about May 27, 2020, the package was received by an FDA Special Agent, who was located in a state other than Texas, who verified it contained most of the products ordered online on May 20, 2020. The package was mailed via United States Postal Service Priority Mail. The package contained the items ordered except for the Yahweh capsules, which

were missing. The return address on the package was one of Defendant's business cards, which matched those displayed with the flyers in Fort Davis, Texas.

40. On May 28, 2020, at approximately 5:11 p.m., Eastern Time, FDA/CDER received an email from "James LeBlanc" (email address jamesleblanc82@yahoo.com) with the subject line "Compliance Letter White Eagle Native Herbs." The email attached a letter from Mark White Eagle, which stated:

> To: Covid-19 Task Force
> From: Mark White Eagle White Eagle Native Herbs
> Re: Response to letter dated May 14, 2020
> Date: 5/28/2020
>
> This is a response to a letter received on 5/28/2020. I'm a Native American Medicine Man and Shaman as referenced in my web site. I'm recognized by the Department of Interior and Bureau of Indian Affairs and I believe that I'm operating under Public Law 95-341 95th Congress protecting Native Americans. I'm domiciled in the Navaho [sic] Nation and not a u.s. citizen. However I'm willing to have all Covid-19 references to all six products mentioned and anywhere else it may be within the web site cited in your letter by my web site contacts as soon as possible. Further contact can be made through the E-Mail address of jamesleblanc82@yahoo.com due to my limited access to internet however I prefer that you use my U.S.P.S. temporary address at Alpine TX, 79831 PO BOX 1341.
>
> Respectfully Submitted,
> Mark White Eagle Medicine Man and Shaman

See Exhibit E.

41. Defendant's response serves as further confirmation that he received the Warning Letter from the FDA. In his response, Defendant does not make any affirmative representation that he will cease and desist from selling his fraudulent products. More significantly, as recently as May 29, 2020, Defendant continued to offer for sale to the public, through his "whiteeaglenativeherbs.net" website the products that were specifically listed as Unapproved and Misbranded Products Related to Coronavirus Disease 2019 (COVID-19) in the FDA Warning Letter

42. Defendant's statements that his products treat and cure COVID-19 are false and fraudulent. The WHO, FDA and CDC have all concluded and made publicly known, that there are no cures or preventative drugs for COVID-19. *See* WHO website (https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/myth-busters); CDC website (https://www.cdc.gov/coronavirus/2019-ncov/hcp/therapeutic-options.html) and FDA website (https://www.fda.gov/consumers/health-fraud-scams/fraudulent-coronavirus-disease-2019-covid-19-products).

43. Victims suffer financial losses from the mail and wire fraud scheme engaged in and facilitated by Defendant.

44. Absent injunctive relief by this Court, Defendant's conduct will continue to cause injury to victims.

COUNT ONE
18 U.S.C. § 1341
MAIL FRAUD

45. The United States re-alleges and incorporates each of the preceding paragraphs as though fully set forth herein.

46. By reason of the conduct described herein, Defendant has violated, is violating, and is about to violate 18 U.S.C. § 1341 by engaging in and facilitating a scheme and artifice to defraud and obtain money or property by means of false or fraudulent representations with the intent to defraud, and, in so doing, use mail to carry out the scheme.

COUNT TWO
18 U.S.C. § 1345
WIRE FRAUD

47. The United States re-alleges and incorporates each of the preceding paragraphs as though fully set forth herein.

48. By reason of the conduct described herein, Defendant has violated, is violating, and is about to violate 18 U.S.C. § 1343 by engaging in and facilitating a scheme and artifice to defraud and obtain money or property by means of false or fraudulent representations with the intent to defraud, and, in so doing, use interstate or foreign wire communications to carry out the scheme.

49. Upon a showing that Defendant is committing or about to commit a violation of either 18 U.S.C. § 1341 or 18 U.S.C. § 1343, the United States is entitled, under 18 U.S.C. § 1345, to seek a temporary restraining order, a preliminary injunction, and a permanent injunction restraining all future fraudulent conduct. The Court may also grant such other relief it deems just and proper to prevent a continuing and substantial injury to victims of the fraud scheme.

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

PRAYER FOR RELIEF

WHEREFORE, the United States requests judgment in its favor and against the Defendant, including the following relief:

A. That the Court issue an order, pursuant to 18 U.S.C. § 1345, pending a hearing and determination of the United States' application for a preliminary injunction, that Defendant, his agents, officers, and employees, and all other persons or entities in active concert or participation with them, are temporarily restrained from committing wire fraud, as defined by 18 U.S.C. §§ 1341 and 1343, from maintaining and doing business through the use of the domain "whiteeaglenativeherbs.net" and from continuing to sell, market or distribute any product intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, including COVID-19;

B. That the Court issue a preliminary injunction, pursuant to 18 U.S.C. § 1345, on the same basis and to the same effect;

C. That the Court issue a permanent injunction, pursuant to 18 U.S.C. § 1345, on the same basis and to the same effect;

D. All such further relief as may be just and proper.

Dated: May 29, 2020

Respectfully submitted,

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