

CAUSE NO. 2008-08473

STATE OF TEXAS,
Plaintiff,

v.

BRIAN DUANE BRUMFIELD and
THORNBROOKS SHAPIRO, LLC,
both doing business as
THE SHERIFF'S JOURNAL,¹
Defendants.

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
152ND JUDICIAL DISTRICT

F I L E D
District Clerk
FEB 22 2008
By _____
Harris County, Texas
Deputy

TEMPORARY INJUNCTION

On this day, came on to be considered the above entitled and numbered cause in which the State of Texas is Plaintiff (hereinafter referred to as "Plaintiff"), and BRIAN DUANE BRUMFIELD and THORNBROOKS SHAPIRO, LLC d/b/a THE SHERIFF'S JOURNAL *et al* are Defendants (hereinafter referred to as "Defendants"). On February 12, 2008, the Honorable Judge Sharon McCally Granted Plaintiff's Application for an Ex Parte Temporary Restraining Order.

Upon review of the pleadings and evidence presented before the Court, the Court orders entry of a Temporary Injunction as follows:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that as used in this Temporary Injunction, the following terms are defined as follows:

A. "Consumer" means an individual, partnership, corporation, or entity of any kind, including this state, or a subdivision or agency of this state who seeks or acquires, by purchase or lease, any goods or services;

¹ Brian Duane Brumfield and Thornbrooks Shapiro, LLC are also doing business as Police Publications, Municipal Officer's Magazine, Law Enforcement Quarterly, First on Patrol Magazine, and The Deputy Defender.

B. “Contributor” means an individual, partnership, corporation, or entity of any kind, including this state or a subdivision or agency of this state, who donates or provides funds or tangible goods to support or assist a charitable cause or any cause which the public could reasonably understand to be for public benefit, public safety, or community service in nature;

C. “Defendants” mean **Brian Duane Brumfield and Thornbrooks Shapiro, LLC d/b/a the Sheriff’s Journal, Police Publications, Municipal Officer’s Magazine, Law Enforcement Quarterly, First on Patrol Magazine, and The Deputy Defender**, their successors, assigns, officers, agents, subcontractors, servants, present and former employees, corporations, and any other person in active concert or participation with them;

D. “Person” means an individual, sole proprietorship, firm, partnership, corporation, association, joint venture or other group, or business entity, however organized;

E. “Seller” means a person who makes a telephone solicitation on the person’s own behalf;

F. “Solicits,” “solicitation” or “solicited” means any type of contact with a person or entity for the purpose of requesting, persuading, or seeking any type of contribution, sponsorship, compensation, advertising revenue, or anything of value from said person or entity for any reason whatsoever;

G. “Telemarketer” or “paid solicitor” means a person employed or authorized by a seller to make telephone solicitations;

H. “Telephone solicitation” and “engaging or engaged in telephone solicitation” means engaging in any type of business or being employed by or for any type of business that makes telephone calls initiated by a seller or salesperson to or from a person or entity for the purpose of

inducing the person or entity to purchase, rent, claim, or receive an item or make a charitable contribution in support of any stated or implied charitable cause or any cause which the public could reasonably understand to be for public benefit, public safety or community service in nature. The term includes a call made by a consumer or contributor in response to a solicitation sent by mail or made by any other means. The term also includes any use of the Internet for any type of solicitation purposes;

I. "Item" means property or service and includes any advertising that is to be used with a business or company;

J. "Owner" means a person who has any control of or is entitled to, by ownership or other claim, at least one percent of the net income of a seller;

K. "Salesperson" means a person employed or authorized by a seller to make a telephone solicitation; and

L. "Purchaser" means a person who either is solicited to become or becomes obligated for the purchase or rental of an item, or is offered the opportunity to claim or receive an item.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants BRIAN DUANE BRUMFIELD and THORNBROOKS SHAPIRO, LLC d/b/a THE SHERIFF'S JOURNAL *et al*, their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with them, who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be temporarily restrained from engaging in the following acts or practices:

(1) Owning, operating, managing, or advising any sole proprietorship, corporation, partnership, or entity that engages in any type of telephone solicitation in the State of Texas, or in

any other state or jurisdiction in which Texas businesses, consumers, or residents are solicited in any manner;

(2) Performing consulting services of any kind to or for any person, sole proprietorship, corporation, partnership, or entity that engages in any type of telephone solicitation in the State of Texas, or in any other state or jurisdiction in which Texas businesses, consumers, or residents are solicited in any manner;

(3) Engaging in telephone solicitation in any manner, directly or indirectly, in the State of Texas, or in any other state or jurisdiction in which Texas businesses, consumers, or residents are solicited in any manner;

(4) Being employed by any person, sole proprietorship, corporation, partnership, or entity which engages in any type of telephone solicitation which purports to involve charity or any cause which the public could reasonably understand to be for public benefit, public safety, or community service in nature, in the State of Texas or in any other state or jurisdiction in which Texas businesses, consumers, or residents are solicited in any manner;

(5) Owning, operating, managing, or advising any person, sole proprietorship, corporation, partnership, or entity, including any non-profit corporation, that solicits funds or advertising revenues from persons or entities for any type of charitable purpose or any cause which the public could reasonably understand to be for public benefit, public safety, or community service in nature in the State of Texas or in any other state or jurisdiction where Texas businesses, consumers or residents are solicited in any manner;

(6) Performing consulting services of any kind to or for any person, sole proprietorship, corporation, partnership, or entity (including non-profit corporations) which solicits funds from

persons or entities for any type of charitable purpose or any cause which the public could reasonably understand to be for public benefit, public safety, or community service in nature in the State of Texas or in any other state or jurisdiction in which Texas businesses, consumers or residents are solicited in any manner;

(7) Being employed by any person or entity which solicits funds or advertising revenues from persons or entities including, but not limited to, professional fund-raisers, commercial fund-raising firms, professional fund-raising firms, commercial co-venturers, charities or representatives of charities for any type of charitable purpose or any cause which the public could reasonably understand to be for public benefit, public safety, or community service in nature in the State of Texas or in any other state or jurisdiction where Texas businesses, consumers, or residents are solicited in any manner;

(8) Owning, operating, managing, advising, or being employed by any charitable and/or nonprofit entity that solicits funds or advertising revenues of any kind which are tax deductible in whole or in part pursuant to Internal Revenue Service laws, rules or regulations, now existing or hereinafter created including, but not limited to, entities that have applied for, but not received, tax exempt status from the Internal Revenue Service;

(9) Representing, expressly or by implication, that any person or entity has any business or other association with Defendants unless Defendants have first obtained written authorization from such person or entity, including, but not limited to any representation that Defendants are associated with any law enforcement group, public safety group, or organization;

(10) Creating, publishing, disseminating, selling, or distributing any type of magazine, periodical, newsletter, brochure, or publication of any kind or character;

(11) Disseminating, selling, or distributing any list or tangible thing containing names of businesses or persons who have contributed or paid funds to any charity, non-profit corporation or entity of any kind, including, but not limited to law enforcement related magazines, firefighter or fire department related magazines, or any magazine or publication purporting to benefit public safety agencies or departments;

(12) Engaging in any type of solicitation of a person, business entity, consumer, or contributor by use of the Internet, without every Internet solicitation message and Internet web site containing a permanent, clear and conspicuous (13 point bold type) written notice informing all recipients that Defendant is prohibited from engaging in telephonic solicitation in the State of Texas;

(13) Soliciting money, advertising fees or any thing of value for any publication, entity or organization, including, but not limited to, **The Sheriff's Journal, Police Publications, Municipal Officer's Magazine, Law Enforcement Quarterly, First on Patrol Magazine, and The Deputy Defender** as well as for any other business, magazine, publication, or cause;

(14) Representing, expressly or by implication, that Defendants, or any person or business associated with Defendants, are affiliated with, endorsed by, authorized by, supported by, associated with or in any way related to any law enforcement organization, or public safety group;

(15) Mailing, faxing, delivering, or forwarding any invoice, letter or thing to any business or person wherein such invoice, letter or thing seeks, demands, or requests any type of payment for advertising or contributions on behalf of any business, magazine, publication, organization, or cause;

(16) Representing, expressly or by implication, that a person or business has authorized or agreed to a payment, invoice or contribution when in fact there is no such authorization or agreement;

(17) Representing, expressly or by implication, that Defendants' business is located in a certain city, state, county, country, or jurisdiction when such business, cause, organization or publication is not actually located in said jurisdiction;

(18) Making any type of implied or express representation to any consumer or person which is not factually true for the purpose of obtaining anything of value from said consumer or person; and

(19) Cashing or depositing in any financial institution, any money orders, cashier's, business or personal checks, or any other type of money exchange device received from consumers as a result of Defendants' solicitations.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants shall turn over to the Plaintiff any money orders, cashier's, business or personal checks, or any other type of money exchange device, received from consumers, as a result of Defendants' solicitations, which Defendants currently hold or which they may receive during the pendency of this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, no bond being required on the part of the Plaintiff, the State of Texas, this Temporary Injunction shall issue and become effective immediately.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants in this cause be and are hereby commanded forthwith to comply with this Order and that the Clerk of this Court shall forthwith issue a Temporary Injunction in conformity with the law and the terms of this Order.

Final trial in this matter is set for the 18 day of August, 2008.

SIGNED on this the 22 day of February, 2008. at. 2:55 p.m.



Judge Presiding