

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

TODAYS GROWTH CONSULTANT INC.
(dba "The Income Store")

and

KENNETH D. COURTRIGHT, III,

Defendants.

Civil Action No. 1:19-cv-08454

TEMPORARY RESTRAINING ORDER
FREEZING ASSETS AND IMPOSING AND OTHER EMERGENCY RELIEF

This case comes before the Court upon plaintiff U.S. Securities and Exchange Commission's ("SEC") emergency *ex parte* Motion for a Temporary Restraining Order Freezing Assets and Imposing Other Ancillary Relief against Defendants Todays Growth Consultant Inc. d/b/a The Income Store ("TGC" and Kenneth D. Courtright, III ("Courtright") (collectively, "Defendants") and for an Order Appointing a Receiver over Defendant TGC ("TRO Motion").

The Court has considered the (i) SEC's Complaint, (i) the SEC's emergency *ex parte* Motion for a Temporary Restraining Order Freezing Assets and Imposing Other Ancillary Relief, and for an Order Appointing a Receiver, (iii) the SEC's memorandum of law in support, (iv) the Declarations of Jeffrey R. Anderson, Thomas Kentner, Gregg Parnell, and Patrick L. Feeney and accompanying exhibits.

Based on the foregoing documents, the Court finds that a proper showing, as required by Section 20(b) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77t(b)] and Section 21(d) the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(d)], and Rule 65(b) of the Federal Rules of Civil Procedure, has been made for the relief granted herein, for the following reasons:

A. This Court has jurisdiction over the subject matter of this action and over Defendants, and venue properly lies in this District as to all Defendants.

B. It appears from the evidence presented that Defendants have violated Securities Act Sections 5(a) and 5(c) [15 U.S.C. §§ 77e(a), (c)], by raising funds in offerings as to which no registration statement was in effect. It appears likely that the SEC will prevail on the merits of its claims under these provisions.

C. It appears from the evidence presented that Defendants have violated Securities Act Sections 17(a)(1), (2), and (3) [15 U.S.C. §§ 77q(a)(1), (2), (3)], and Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rules 10b-5(a), (b), and (c) [17 C.F.R. §§ 240.10b-5(a), (b), and (c)] thereunder, by raising funds in an unregistered offering using misrepresentations to investors and potential investors that the funds they invest are used to purchase or build revenue-generating websites and for to develop, market and maintain such websites, when in fact a significant portion of proceeds raised from new investors are used to pay earlier investors the guaranteed returns that are specified in investors’ Consulting Performance Agreements, or to repay loans, or are transferred to Courtright for personal use or to third-parties on his behalf, as alleged in the Complaint. It appears likely that the SEC will prevail on the merits of its claims under these provisions.

D. It appears that Defendants have raised at least \$75 million from more than 500 investors between January 1, 2017 and the present, at least \$20 million of which it paid out to earlier investors in Ponzi-like payments, and at least \$2 million of which it transferred to Courtright for personal use or on his behalf.

E. It appears that an order freezing Defendants' assets, as specified herein, is necessary to preserve the *status quo* and to protect the SEC's ability to collect on any final judgment of this Court ordering Defendants to disgorge ill-gotten gains, with prejudgment interest, and ordering Defendants to pay a civil penalty.

F. It appears that an order prohibiting Defendants from destroying or altering records of any kind, including documents concerning the allegations in the Complaint or the assets or finances of Defendants, is necessary to ensure compliance with the asset freeze imposed on Defendants and to protect the integrity of this litigation.

G. Good and sufficient reasons have been shown why expedited discovery is warranted.

H. Good and sufficient reasons have been shown why an immediate accounting is necessary to identify the source, location, and use of funds obtained from investors who entered into Consulting Performance Agreements, and to effectuate the freeze imposed on Defendants' assets.

Accordingly, the SEC's TRO Motion is **GRANTED**, and the Court hereby Orders as follows:

I.

SHOW CAUSE HEARING

IT IS HEREBY ORDERED that the Defendants show cause, if any there be, before this Court at __: __ .m., on the _____ day of _____, 20__ in Courtroom _____ of the United States District Court for the Northern District of Illinois, why a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be granted against the Defendants.

A. The SEC's shall serve its Summons and Complaint and all papers filed in connection with its TRO Motion upon Defendants on or before _____, 20__.

B. The SEC's TRO Motion is also deemed to be a motion for a preliminary injunction order, and the SEC is not required to file or serve a separate motion for a preliminary injunction in order to seek the entry of such preliminary relief pursuant to Fed. R. Civ. P. 65. The SEC may file with the Court and serve on Defendants supplemental briefing in support of a preliminary injunction by no later than _____, 20__, at 5:00 p.m.

C. Defendants shall file with the Court, and serve on the SEC, any papers in opposition to such relief by no later than _____, 20__, at 5:00 p.m.

D. The SEC may filed with the Court and serve on Defendants a reply brief by no later than _____, 20__, at 5:00 p.m.

E. Defendants shall serve their opposition papers on the SEC emailing their papers to RomajasS@sec.gov, or by sending the papers by overnight courier service to Suzanne J. Romajas, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5971.

F. The SEC shall serve its supplemental moving papers and reply papers on Defendant Courtright by sending papers to his counsel of record, if any, or by the most

expeditious means available, including (i) by email on Kenneth Courtright at kdc@todaysgrowth.com, ken@todaysgrowthconsultant.com, and ken@incomestore.com; or (ii) by overnight courier service to Kenneth Courtright, 212 Slalom Ct., Minooka, IL 60447.

G. The SEC shall serve its supplemental moving papers and reply papers on Defendant TGC by sending papers to its counsel of record, if any, or by the most expeditious means available, including by overnight courier service to Todays Growth Consultant, Inc., 212 Slalom Ct., Minooka, Illinois 60447. Or, if this Court orders the appointment of a receiver over Defendant TGC, the SEC may serve Defendant TGC through the receiver, including by email.

H. At or before the time of the hearing set forth in this Paragraph, above, this Court may extend this Order pending a hearing on the SEC's motion for a preliminary injunction.

II.

INJUNCTION FROM VIOLATIONS OF THE FEDERAL SECURITIES LAWS

IT IS HEREBY ORDERED that, until further Order of this Court, Defendants, their officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, including facsimile transmission, mail, overnight delivery service, or electronic mail, and each of them, are enjoined from, directly or indirectly, are restrained violating Section 5 of the Securities Act [15 U.S.C. § 77e], Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and Section 10(b) of the Exchange Act and Rules 10b-5(a), (b), and (c) thereunder.

III.

PROHIBITION AGAINST OFFERING, SELLING OR BUYING BACK SECURITIES

IT IS FURTHER ORDERED that, until further Order of this Court, Defendants, their officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or

participation with them who receive actual notice of this Order, by personal service or otherwise, including facsimile transmission, mail, overnight delivery service, or electronic mail, and each of them, are enjoined from, directly or indirectly, soliciting or accepting any funds from prospective or current investors, including by offering, selling, entering into, or buying back Consulting Performance Agreements.

IV.

ASSET FREEZE

IT IS HEREBY ORDERED that, pending a determination of the SEC's motion for a preliminary injunction: Defendants and each of their financial and brokerage institutions, officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile service, telephonic notice, mail, overnight delivery, electronic mail, or otherwise, and each of them, shall hold and retain within their control, and otherwise prevent, any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal (including the use of any credit cards or any other incurring of debt) any of funds or other assets or things of value presently held by or under the control of any Defendant, whether held in their name or for their direct or indirect beneficial interest, , in whatever form such assets may presently exist and wherever located including, but not limited to, all funds in the following accounts:

Account Title	Institution Name	Account Number
Todays Growth Consultant, Inc.	PNC Bank, NA	*****9755
Todays Growth Consultant, Inc.	PNC Bank, NA	*****9747
Todays Growth Consultant, Inc.	PNC Bank, NA	*****9763
Todays Growth Consultant, Inc.	PNC Bank, NA	*****9771
Todays Growth Consultant, Inc.	PNC Bank, NA	*****9798
Todays Growth Consultant, Inc.	PNC Bank, NA	*****0545
Kenneth Courtright	PNC Bank, NA	*****2751

Kenneth Courtright	PNC Bank, NA	*****6872
Kenneth Courtright	PNC Bank, NA	*****4789
Kenneth Courtright	Heartland Bank and Trust Company	*****0335
Kenneth Courtright	Heartland Bank and Trust Company	*****9598

V.

ORDER PROHIBITING DESTRUCTION OF DOCUMENTS

IT IS HEREBY FURTHER ORDERED that, pending a determination of the SEC’s motion for preliminary injunction, Defendants are enjoined and restrained, and any person or entity acting at the direction of or on behalf of them is enjoined and restrained from destroying, mutilating, concealing, transferring, altering, or disposing of, any documents, books, and records that in the possession, custody or control of Defendants, their respective officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert or participation with them, including any document, book, or record concerning: (1) the allegations of the Complaint, (2) any securities offered for sale by Defendant TGC, including, but not limited to Consulting Performance Agreements, (3) any communications with, between, or among either Defendant. ,.

B. As used in this order, “document” has the broadest meaning permitted under the Federal Rules of Civil Procedure, and shall include any information stored in any medium from which information can be obtained, and includes electronically-stored information and information maintained on shared network files, computer hard drives, servers, DVDs, CD-ROMs, flash drives, thumb drives, laptops, digital recorders, netbooks, PDA, or other handheld/ smartphone devices, or on the cloud.

C. Defendants are ordered to act affirmatively to prevent the destruction of documents. This duty may necessitate: (1) quarantining certain documents to avoid its

destruction or alteration; or (2) discontinuing the recycling of backup tapes or other storage media, and the deletion of emails, “trash,” “recycling,” “drafts,” “sent,” or “archived” folders.

E. Defendants are directed not to run or install any drive cleaning, wiping, encrypting, or defragmenting software on hard disks of computers that may contain documents.

VI.

SWORN ACCOUNTINGS

IT IS HEREBY FURTHER ORDERED that, Defendant TGC file with this Court and serve upon the SEC's counsel, within five (5) days of the date of this Order, or five (5) business days prior to a hearing on the SEC's motion for preliminary injunction, whichever comes first, a verified written accounting, signed under penalty of perjury by the officer or employee of TGC who most knowledgeable about TGC's financial condition, providing the following information:

A. A sworn accounting that identifies each Consulting Performance Agreement entered into by TGC since January 1, 2013, listing the name and address of each counterparty to the Consulting Performance Agreement (a/k/a the “site partner”); the amount the counterparty paid directly or indirectly to TGC and the date on which such funds were received; the disposition of any such funds, including the date, amount, recipient, and purpose of each disbursement; the identification of any website built or acquired for the counterparty and the amount of any revenues generated by such websites; the amount of any disbursements made to the counterparty and the date of each such payment.

B. A sworn accounting that identifies each loan or other form of indebtedness entered into by TGC since January 1, 2013, with the name of each lender; the date(s) on which the debt instrument was executed; the principal amount of the debt and the interest rate, if any;

and, for each loan/indebtedness, all proceeds received by TGC under those instruments, the date and amount; and (ii) all monies sent by TGC to lenders or other holders of TGC's debt since January 1, 2019;

C. A sworn accounting that identifies all current assets and liabilities of TGC, including any asset held directly or indirectly by, or for the benefit of, TGC. The accounting shall describe the asset and liability, provide the account numbers and such other information as may be necessary to identify and locate the asset or liability, and the amount of the asset or liability.

D. A sworn accounting that identifies any transaction of \$10,000 or more, since January 1, 2019, in which the ownership, direction, or control of any funds, financial instruments, real property, or other assets of any kind, have been transferred directly or indirectly from TGC or any subsidiary, division, affiliate, or agent, to any person or entity.

E. A sworn accounting that identifies all transactions, of any amount, in which funds, financial instruments, real property, or other assets of any kind, have been transferred directly or indirectly from TGC or any subsidiary, division, affiliate, or agent, to Courtright, or to a third party for the benefit of Courtright. The accounting shall describe the date and amount of the transfer and identify who the transfer was between. The accounting should include any payments that TGC made on Courtright's behalf to pay a Barclays credit card.

F. Unless identified in Paragraph IV, each account with any bank, financial institution, or brokerage firm (including the name of the institution and last four digits of the account number), whether in the United States or elsewhere, maintained in the name of TGC, or any subsidiary, division, affiliate, or agent, or under the direct or indirect control of TGC, or in which TGC has or had any beneficial interest since January 1, 2013.

G. All business addresses, postal box numbers, safety deposit boxes, storage facilities, or tax identification numbers, used or maintained by TGC, or under TGC's direct or indirect control, at any time from January 1, 2013 to the present.

IT IS HEREBY FURTHER ORDERED that, Defendant Courtright shall file with this Court and serve upon the SEC's counsel and the Receiver, within five (5) days of the date of this Order, or five (5) business days prior to a hearing on the SEC's motion for preliminary injunction, whichever comes first, a verified written accounting, signed under penalty of perjury by Defendant Courtright, providing the following information:

A. A sworn accounting that identifies all current assets and liabilities of Courtright, including any asset held directly or indirectly by, or for the benefit of, Courtright. The accounting shall describe the asset and liability, provide the account numbers and such other information as may be necessary to identify and locate the asset or liability, and the amount of the asset or liability.

B. A sworn accounting that identifies all transactions, of any amount, in which funds, financial instruments, real property, or other assets of any kind, have been transferred directly or indirectly from TGC or any subsidiary, division, affiliate, or agent, to Courtright, or to a third party for the benefit of Courtright, since January 1, 2013. The accounting shall describe the date and amount of the transfer and identify who the transfer was between. The accounting should include any payments that TGC made on Courtright's behalf to pay a Barclays credit card.

C. A sworn accounting by Courtright of all monies sent by Courtright to any person that, in a single transaction or cumulative transactions, has exceeded **\$10,000** since January 1, 2019.

D. Unless identified in Paragraph IV., each account with any bank, financial institution, or brokerage firm (including the name of the financial institution and name and last four digits of the account number) whether in the United States or elsewhere, maintained in Courtright's name or held for Courtright's direct, indirect, or beneficial interest or over which Courtright exercised any direct or indirect control from January 1, 2013 through the date of the accounting.

E. All residence addresses, postal box numbers, safety deposit boxes, storage facilities, tax identification numbers, and passport numbers, used or maintained by Courtright, or under Courtright's direct or indirect control, at any time from January 1, 2013 to the present.

VII.

EXPEDITED DISCOVERY

IT IS HEREBY FURTHER ORDERED that, pending a hearing and the Court's determination of the SEC's motion for preliminary injunction, the SEC's application for expedited discovery is granted and that, commencing with the time and date of this Order, in lieu of the time periods, notice provisions, and other requirements of Rules 26, 30, 33, 34, 36 and 45 of the Federal Rules of Civil Procedure, discovery shall proceed as follows, immediately upon entry of this Order:

A. Pursuant to Rule 30(a) of the Federal Rules of Civil Procedure, the SEC may take depositions upon oral examination on **three (3) calendar days' notice** of any such deposition. Depositions may be taken Monday through Saturday and may be taken telephonically. As to each Defendant and their officers, agents, servants, employees, attorneys-in-fact, and those persons in active concert with them, the SEC may depose such witnesses after serving a deposition notice by email, facsimile, hand or overnight courier, and without serving a Rule 45 subpoena on such

witness. Depositions that have not been signed by the witness may be used for purposes of the hearing on the Commission's application for a preliminary injunction;

B. Pursuant to Rule 33(a) of the Federal Rules of Civil Procedure, Defendants shall answer the SEC's interrogatories within **three (3) calendar days** of service of such interrogatories, and shall serve their responses by email to RomajasS@sec.gov and BrennanMi@sec.gov;

C. Pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, Defendants shall produce all documents requested by the SEC within **three (3) calendar days** of service of such request, by email to RomajasS@sec.gov and BrennanMi@sec.gov; or by sending the documents by overnight courier service to Suzanne J. Romajas, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5971.

D. Pursuant to Rule 36(a) of the Federal Rules of Civil Procedure, Defendants shall respond to the SEC's requests for admissions within **three (3) calendar days** of such requests, by email to RomajasS@sec.gov and BrennanMi@sec.gov; and

E. All written responses and objections to the SEC's requests for discovery under the Federal Rules of Civil Procedure shall be delivered to RomajasS@sec.gov and BrennanMi@sec.gov, or by sending the written responses or objections by overnight courier service to Suzanne J. Romajas, Securities & Exchange Commission, 100 F Street NE, Washington, DC 20549-5971.

F. The SEC's service of discovery requests shall be sufficient if made upon counsel of record or, if there is no counsel of record, upon the Defendants themselves, by either email or overnight delivery service. If this Court orders the appointment of a receiver over Defendant TGC, the SEC may serve Defendant TGC through the receiver, including by email.

G. In connection with any discovery sought by the SEC from a non-party, deposition or document discovery may be had within five days of service of a subpoena pursuant to Fed. R. Civ. P. Service of a subpoena may be made by facsimile, email, overnight courier service, email, or hand.

H. Depositions may be taken by telephone or other remote electronic means.

I. Depositions taken pursuant to this Order shall not impact the number of depositions the SEC may take in regular, non-expedited discovery.

VIII.

OTHER RELIEF

1. Notice of this Order, or any other Orders of the Court or Notices required to be issued by the Plaintiff, may be accomplished by delivery of a copy of the Order or Notice by first class mail, overnight delivery, international express mail, facsimile, electronic mail, or personally, by agents or employees of Plaintiff, (i) upon the Defendants or their attorneys; and (ii) upon any bank, saving and loan institution, credit union, financial institution, transfer agent, broker-dealer, investment company, title company, commodity trading company, storage company, or any other person, partnership, corporation, or legal entity that may be subject to any provision of this Order.

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

3. Pursuant to Federal Rule of Civil Procedure 65(c), no security is required of the SEC.

4. This Order shall be operative until further order of this Court.

IX.

PRESERVATION OF RIGHTS AND PRIVILEGES

IT IS HEREBY ORDERED, ADJUDGED and DECREED that, nothing in this Order shall be construed to require that Defendants abandon or waive any constitutional or other legal privilege which they may have available to them including any Fifth Amendment privilege against self-incrimination. In turn, nothing in this Order shall prevent the SEC from opposing or challenging any assertion by a Defendant of any Fifth Amendment privilege against self-incrimination, or any other constitutional or other legal privilege.

X.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this matter and the Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

SO ORDERED.

Date: 12-30-19

Charles R. Norge
CHARLES R. NORGE

UNITED STATES DISTRICT JUDGE