

ROBB EVANS & ASSOCIATES LLC

Receiver of

Assail, Inc.; Infinium, Inc.; Market-Rep.com, Inc.;
Summit Communications International, Inc.; d/b/a Advantage Capital;
Capital First Benefits, Inc.; Premier One Benefits, Inc., et al.
and Assets of Kyle Kimoto

11450 Sheldon Street
Sun Valley, California 91352-1121
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Federal Trade Commission v. Assail, Inc., et al.
CASE No. W-03-CA-007

Order Re-Entering Preliminary Injunction Order
Filed on February 4, 2003 Against Par3, Inc.

Filed September 17, 2004

Par 3 has now filed a Motion under Rule 60(b) of the Federal Rules of Civil Procedure to set aside the Permanent Injunction. Having reviewed the motion, the FTC's opposition, and the file in this case, the Court is persuaded the motion is meritorious and should be granted. The Court believes that Par 3 should be given personal notice of this lawsuit and proposed injunction and should have an opportunity to contest the allegation that it is the alter ego of Kyle Kimoto. Accordingly, The Motion of Non-Party Par 3, Inc. to Set Aside the Permanent Injunction as To It is **GRANTED**.

As the Permanent Injunction no longer applies to Par 3, it is unclear whether the preliminary injunction would apply, either. In the interests of justice, the Court believes that the preliminary injunction previously entered in this case should be re-entered as to Par 3, Inc. as a temporary restraining order. The various exhibits and hearings before the Court establish the great likelihood that any assets possessed by Par 3 would be dissipated before the alter ego issue is resolved if a restraining order is not granted. Accordingly, it is **ORDERED** that the preliminary injunction Order filed on February 4, 2003 is hereby re-entered as of this date as a temporary restraining order covering Par 3, Inc., its officers, agents, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns and all other persons or entities in active concern or participation with it who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other device. It is further

ORDERED that the FTC shall personally serve Par 3, Inc., through its majority stockholder, James Fales, and any other known officers and/or directors of the

corporation, with a copy of this Order, a copy of the preliminary injunction order filed on February 4, 2003, and any other pleadings pertinent to this case. It is further

ORDERED that Par 3, Inc. shall serve on the FTC all memoranda, affidavits and other evidence on which it intends to rely at the preliminary injunction hearing set in this matter by no later than 4:00 p.m. (Central time) on the third day prior to the hearing date. It is further

ORDERED that the Temporary Restraining Order granted herein shall remain effective until 4:00 p.m. on Friday, October 1, 2004. It is further

ORDERED pursuant to Federal Rule of Civil Procedure 65(b) that Par 3, Inc. shall appear before this Court on the 1st day of October, 2004 at 9:30 a.m. to show cause, if there is any, why this Court should not enter a Preliminary Injunction.

SIGNED this 17th day of September, 2004 at 4:00 o'clock p.m.


WALTER S. SMITH, JR.
Chief United States District Judge