

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

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DAV. CO. CHANCERY COURT

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LESLIE A. NEWMAN,)
Commissioner of the Tennessee)
Department of Commerce and Insurance,)
)
Petitioner,)

v.)

No. 10-507-111

SMART DATA SOLUTIONS, LLC,)
a Tennessee limited liability company,)
AMERICAN TRADE ASSOCIATION,)
INC., an Indiana nonprofit corporation with)
its principal place of business in Tennessee,)
AMERICAN TRADE ASSOCIATION,)
LLC, an Arkansas limited liability company,)
SERVE AMERICA ASSURANCE,)
a corporation with an unknown location,)
BART S. POSEY, SR., an individual,)
ANGIE POSEY, an individual,)
OBED W. KIRKPATRICK, SR.,)
an individual,)
LINDA KIRKPATRICK, an individual,)
RICHARD H. BACHMAN, an individual,)
KRISTY WRIGHT, an individual,)
WILLIAM M. WORTHY, II, an individual,)
and)
COLIN YOUELL, an individual,)
)
Respondents.)

CONFIDENTIAL FILING MADE UNDER
Tenn. Code Ann. § 56-9-202

**ORDER OF SEIZURE OF RESPONDENTS
SMART DATA SOLUTIONS, LLC, AMERICAN TRADE ASSOCIATION,
INC., AMERICAN TRADE ASSOCIATION, LLC, and SERVE AMERICA
ASSURANCE - ORDER SETTING HEARING ON REQUEST FOR
LIQUIDATION**

This cause was presented to the Court *ex parte* on the Verified Application of Leslie A. Newman, Commissioner of Commerce and Insurance for the State of Tennessee, for Seizure of

Respondents Smart Data Solutions, ("SDS") a Tennessee limited liability company, American Trade Association, Inc., an Indiana nonprofit corporation ("ATA") and American Trade Association, LLC, ("ATA LLC") an Arkansas limited liability company, doing business from Springfield, Tennessee, (the "ATA entities") and Serve America Assurance, ("SAA") purportedly a Bermuda captive insurance company owned by Beema Pakistan Company Limited, but disavowed by such Beema, with an unknown location, together with all the supporting Affidavits and Exhibits thereto, including the Verified Petition for Liquidation and exhibits on file in this action. Based upon the Verified Application for Seizure and Verified Petition for Liquidation, and the supporting exhibits and affidavits thereto, it appears to the Court that seizure under Tenn. Code Ann. § 56-9-201 of the ATA entities, SDS and SAA is appropriate under applicable law and that the Commissioner's Application for Seizure should be granted. Further it is appropriate, based on the facts and circumstances alleged in the Verified Application and Verified Petition, that this Order of Seizure be entered *ex parte*, without prior notice to the ATA entities, SDS or SAA or other Respondents, in order to prevent any harmful activities such as waste of assets or spoliation of records that could occur if notice were to be given, and to otherwise protect policyholders, creditors and the public, whose interests will be endangered by delay. This Order is confidential as set forth in Tenn. Code Ann. § 56-9-202(a), and pursuant to the Order for Filings to be Made Under Seal, entered herewith. It is, therefore, **ORDERED, ADJUDGED and DECREED** that:

- 1) The Commissioner of the Tennessee Department of Commerce and Insurance is ordered in her official capacity to seize the business comprised of and known by any of the names: Respondents AMERICAN TRADE ASSOCIATION, INC., an Indiana nonprofit corporation with its official address and a principal business address at 4676 Highway 41 North, Springfield, Tennessee 37172 and another principal address at 400 Memorial Blvd., Springfield, TN 37172, and AMERICAN TRADE ASSOCIATION, LLC, an Arkansas limited liability company, ("the ATAs"), SMART DATA SOLUTIONS, ("SDS") a Tennessee limited liability

company with its official address and principal business address at 4676 Highway 41 North, Springfield, Tennessee 37172 and SERVE AMERICA ASSURANCE, ("SAA") a business entity with an unknown address, (hereinafter "ATAs, SDS and SAA" or, collectively, the "insurer"), to take possession and control of all property, books, bank and investment accounts, documents, claim files, computer databases and systems, and all other records of ATAs, SDS and SAA, *in whatever form and wherever located*, and of the premises, wherever located and occupied by them for transaction of their business. The Commissioner's control and possession shall include, but not be limited to, inventory property and image computers and other electronic devices. Further, because 4676 Highway 41 North, Springfield, Tennessee 37172 and 400 Memorial Blvd, Springfield, TN 37172 are addresses in which the ATAs, SDS and SAA have conducted insurance business, the Commissioner shall have authority to remove books, documents, computers, bank statements and other property relating to the business of the ATAs, SDS or SAA from such addresses. The Commissioner shall have the authority to cause ATAs, SDS and SAA to obey any of the cease and desist orders issued by Tennessee and any other states' insurance commissioners against insurance activities and to prevent further violations of such orders. The Commissioner shall have the authority and discretion to suspend all payments by the ATAs, SDS and SAA but those necessary for administration of the seizure order;

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2) Until further order of this Court, the ATAs, SDS, SAA and their officers, directors, stockholders, members, subscribers, managers, agents, employees, and independent contractors, and/or vendors who have been hired to perform and maintain off-site networks and databases are enjoined and prohibited from waste or disposition of ATAs', SDS's and SAA's property, or the destruction, deletion, modification, or waste of their records, databases or computer files, in whatever form and wherever located. All persons, firms, corporations and associations including, but not limited to, ATAs, SDS, SAA and their officers, directors, employees, stockholders, members, subscribers, agents and all other persons with authority over or in charge of any segment of ATAs', SDS's or SAA's affairs are enjoined and prohibited from the transaction of ATAs', SDS's or SAA's business except with the written consent of the Commissioner, and are enjoined from the commencement and prosecution of any actions, obtaining any preferences, judgments, attachments, garnishments or liens against ATAs, SDS or SAA, or making of any levy against ATAs, SDS, SAA or against their assets or any part thereof;

3) Pursuant to Tenn. Code Ann. § 56-9-106 and 201, the officers, managers, directors, trustees, owners, employees, agents, contractors or subcontractors of Respondents, and independent contractors, and/or vendors who have been hired to perform and maintain off-site networks and databases and any other persons with authority over or in charge of any segment of ATAs', SDS's or SAA's affairs and their agents, employees, contractors and subcontractors, officers and directors, are ordered and required to cooperate with the Commissioner in effecting the seizure.

The term "person" shall include any person who exercises control directly or indirectly over activities of the ATAs, SDS or SAA through any holding company, parent company, or other affiliate of the ATAs, SDS or SAA. Furthermore, the term "person" shall include any person who exercises control or participation in the activities of the ATAs, SDS or SAA, such as through the holding, processing or management of their assets or payments, record-keeping and computer systems' operations relating to the activities of ATAs, SDS or SAA or any other contractual relationship. "To cooperate" shall include, but shall not be limited to, the following: (1) to reply promptly in writing to any inquiry from the Commissioner requesting such a reply; and (2) to preserve and make available to the Commissioner any and all books, bank and investment accounts, documents, or other records or information or computer programs and databases or property of or pertaining to the ATAs, SDS or SAA and in their possession, custody or control. No person shall obstruct or interfere with the Commissioner in the conduct of this seizure;

4) Any bank, savings and loan association, financial institution or other person, which has on deposit, in its possession, custody or control any funds, accounts and any other assets of the ATAs, SDS or SAA, including the Farmers & Merchants Bank, 3519 Tom Austin Hwy, Springfield, TN 37172 and First State Bank, 300 Northcreek Blvd., Goodlettsville, TN 37072, including financial institution accounts controlled by or held in the name of other account holders, shall immediately transfer custody and control of all such funds, accounts, or assets to the Commissioner, and are hereby instructed that the Commissioner has absolute control over such funds, accounts and other assets. ~~The Commissioner may change the name of such accounts and other assets, make withdrawals from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of this seizure/conservation. No bank, savings and loan association or other financial institution shall exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the Commissioner's control without the permission of this Court;~~

5) The Commissioner is authorized to appoint one or more special deputy commissioners, who shall have all the powers and responsibilities of the Commissioner granted by this Order, and to employ such counsel, clerks and assistants as she deems necessary to carry out her duties in seizing ATA, SDS and SAA, the compensation for whom shall be fixed by the Commissioner, subject to the approval of the Court, and shall be paid out of the funds or assets of the Respondents. The Commissioner has designated Paul Eggers, as one Special Deputy for purposes in the seizure of ATAs, SDS and SAA and any of the unauthorized insurance business conducted by and through Respondents. All persons appointed under this section shall serve at the pleasure of the Commissioner;

6) The officers, managers, directors, trustees, owners, employees or agents of the ATAs, SDS and SAA, and independent contractors, and/or vendors who have been

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Freeze the accounts and allow no transactions on the accounts until further order of this court. Show the Commissioner require, before the 3/30/10 1:30 p.m. Hearing to appoint a receiver, the

The Commissioner shall file a motion for expedited relief with the court.

hired to perform and maintain off-site networks and databases, and any other persons with authority over or in charge of any segment of ATAs', SDS's or SAA's affairs, are ordered to turn over and/or generate the necessary files, computer-generated or otherwise, records of accounts, bank statements, reports and information available from both in-house and outside sources routinely used by the ATA entities, SDS and SAA, including ATAs', SDS's and SAA's customers, agents, claims files and other databases, wherever located and in whatever form, in order to assist the Commissioner in performing her duties in the seizure of ATAs, SDS and SAA. The term "person" shall include any person who exercises control directly or indirectly over activities of ATAs, SDS or SAA through any holding company or other affiliate of ATAs, SDS or SAA;

7) The Commissioner's successors in office shall have the same powers, rights and duties as those conferred by this order on the Commissioner;

8) Pursuant to Tenn. Code Ann. § 56-9-201(c), either Petitioner, the ATAs, SDS, SAA, or the Court may move, and the Court may hold such hearings on the motion as it deems desirable after such notice as it deems appropriate, to extend, shorten or modify the terms of this seizure order. Pursuant to Tenn. Code Ann. § 56-9-201(e), the ATAs, SDS or SAA may petition this Court for a hearing and review of this order, and the Court shall hold a hearing and review not more than fifteen (15) days after the request. A hearing under this subsection may be held privately in chambers and it shall be so held if requested by the ATAs, SDS or SAA;

9) This order shall remain in effect until entry or denial of an order of liquidation in this case, unless otherwise ordered by this Court. A hearing on the Commissioner's Verified Petition for Liquidation is set for the 30th day of March, 2010 at 1:30 P.M. (NOTICE OF THIS HEARING ALSO TO BE PLACED IN THE PUBLIC DOCKET OR BY PUBLIC ORDER SETTING HEARING);

10) This order shall be and remain confidential until this Court, after hearing arguments from the parties in chambers, shall order otherwise, or unless the ATAs, SDS or SAA request that the matter be made public. Except where further disclosure is necessary to obtain compliance herewith, in dealing with members of the public, the Commissioner and any other persons under her direction and control may refer to the public record in this matter, ~~including the Liquidation Petition and its exhibits;~~ and may state that the ATAs, SDS and SAA are conducting and/or suspending business under the direction and approval of the Tennessee Commissioner. Further, the Commissioner and any other persons under her direction and control may effectuate, comply with and refer to any public cease and desist orders pertaining to the business of the ATAs, SDS and/or SAA, and any of the other Respondents, including those issued by the Commissioner and those orders that are in effect from other states' insurance commissioners;

→ mindful of and consistent with the order for Filings To Be Made Under Seal entered contemporaneous to this order;

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11) Pursuant to Tenn. Code Ann. § 20-13-101, no bond is required of the Commissioner as a prerequisite for the issuance of this seizure order and any injunction, restraining order, or additional order issued in this action. Further, entry of this Order of Seizure shall not in any way prevent or foreclose the Commissioner from applying to this Court for further orders in this matter.

ENTERED THIS 23rd DAY OF March, 2010, at 4:15 P.M.

Allen Hobbs Lyle
CHANCELLOR

cc: Cristi Scott, Clerk; Master - see p 10 above
APPROVED FOR ENTRY:

ROBERT E. COOPER, JR. (BPR 10934)
Attorney General and Reporter

Sarah A. Hiestand

SARAH A. HIESTAND (BPR 14217)
Senior Counsel, Financial Division
Office of the Attorney General
(615) 741-6035; fax (615) 532-8223

Date Issued 3-23-10

Cristi Scott, Clerk & Master

AK
Deputy Clerk & Master

Lyndsay F. Sanders
LYNDSAY F. SANDERS (BPR 22849)

Assistant Attorney General
Law Enforcement and Special Prosecutions Division
Office of Attorney General
425 Fifth Avenue North, 2nd Floor
P. O. Box 20207
Nashville, TN 37202-0207
(615) 741-4087

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF ORIGINAL INSTRUMENT FILED IN MY OFFICE.
THIS 24th DAY OF March 2010
CRISTI SCOTT, CLERK & MASTER
BY AK
DEPUTY

3-24-10 Filed to
SH atty.
AK

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order of Seizure will be mailed upon issuance, by United States mail, to:

William L. Hendricks, Jr.
Evans Petree, PC
1661 International Place Drive, Suite 300
Memphis, Tennessee 38120 901-474-6144, fax 901-374-7571

Respondent Smart Data Solutions:

Bart S. Posey, Sr.
Owner, Smart Data Solutions, LLC
and Smart Data Solutions, LLC,
4676 Highway 41 North
Springfield, Tennessee 37172

Respondent American Trade Association, Inc.:

American Trade Association, Inc.
4676 Highway 41 North
Springfield, Tennessee 37172

American Trade Association, Inc.
400 Memorial Blvd.
Springfield, Tennessee 37172

American Trade Association, Inc.
c/o National Registered Agents, Inc.
2300 Hillsboro Road, Suite 305
Nashville, Tennessee 37212

Obed W. Kirkpatrick, Sr.
President, American Trade Association, Inc.
4676 Highway 41 North
Springfield, Tennessee 37172

Obed W. Kirkpatrick, Sr.
President, American Trade Association, Inc.
400 Memorial Blvd.
Springfield, Tennessee 37172

Respondent American Trade Association, LLC:

American Trade Association, LLC
c/o InCorp Services, Inc.
455 West Maurice
Hot Springs, Arkansas 71901

American Trade Association, LLC
4676 Highway 41 North
Springfield, Tennessee, 37172

Bart S. Posey, Sr.
Owner, American Trade Association, LLC
4676 Highway 41 North
Springfield, Tennessee, 37172

Respondent Serve America Assurance, Ltd.:

Serve America Assurance, Ltd. Company
117 Winding Oak Way
Blythewood, South Carolina 29016

Serve America Assurance, Ltd.
P.O. Box 5626
Karachi-7400, Pakistan

Serve America Assurance, Ltd.
c/o Beema Pakistan Company, Ltd.
412-427 Muhammadi House
I.I. Chundrigar Road, P.O. Box 5626
Karachi-7400, Pakistan

Individual Respondents:

Obed W. Kirkpatrick, Sr. and
Linda Kirkpatrick
1705 Rocking Chair Place
Franklin, TN 37067

Richard H. Bachman
1600 Magpie Cove
Austin, Texas 78746

Bart S. Posey, Sr. and
Angie Posey
3448 Forest Park Road
Springfield, Tennessee 37172

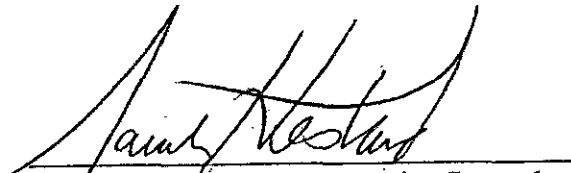
Kristy Wright
117 Fieldstone
Springfield, Tennessee 37172

William M. Worthy II
P. O. Box 462
Isle of Palms, South Carolina 29451

William M. Worthy II
550 Palmetto Street
Spartanburg, South Carolina 29302

Collin Youell
1551 North Flagler Drive, #1116
West Palm Beach, Florida 33401

this 23rd day of March, 2010.



SARAH A. HIESTAND, Senior Counsel