

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FSC FRANCHISE CO., LLC,

Plaintiff,

v.

CASE NO: 8:09-cv-454-T-23TGW

EXPRESS CORPORATE APPAREL,
LLC, et al.,

Defendants.

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ORDER

The plaintiff's "Motion for Final Default Judgment" (Doc. 71) was referred (Doc. 72) to the United States Magistrate Judge. On February 28, 2010, the Magistrate Judge issued a report (Doc. 83) that recommends granting the motion in part. Although the original motion (Doc. 71) requested damages of \$142,370.13, a revised calculation presented (Doc. 78) by the plaintiff requests \$30,742.48 and the report adopts that amount. The report also recommends a slight reduction in the attorney's fees and costs requested by the plaintiffs. (Doc. 83, Pages 30 and 34) No party objects to the report, and the time for filing an objection has expired. Accordingly, the Magistrate Judge's report and recommendation (Doc. 83) is **ADOPTED**, and the plaintiff's motion (Doc. 71) for default judgment is **GRANTED IN PART**.

The defendant Express Corporate Apparel, LLC; any officer, agent, servant, employee, or attorney acting on behalf of Express Corporate Apparel, LLC; and any

other person who is in active concert or participation with them and who receives actual notice of this order by personal service or otherwise, is **PERMANENTLY ENJOINED** from directly or indirectly:

(1) manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, promoting, displaying, or marketing a product bearing a Beef O'Brady's mark or a confusingly similar designation;

(2) engaging in any act causing or likely to cause a consumer to believe that a product or service distributed, offered, advertised, or sold by the defendant is in any way associated or connected with or manufactured, sold, licensed, approved, sponsored, or authorized by the plaintiff; and

(3) assisting, aiding, or abetting any other person or entity to engage in or perform any act proscribed by this injunction.

The Clerk is directed to (1) enter a judgment in favor of the plaintiff, FSC Franchise Co., LLC, and against the defendants Express Corporate Apparel, LLC, and the Estate of Richard Donahue, jointly and severally, for \$30,742.48 in damages, \$39,305.00 in fees, and \$560.00 in costs, (2) terminate any pending motion, and (3) close the case.

ORDERED in Tampa, Florida, on March 29, 2011.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE