

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

Merlin's Franchising, Inc.)	
)	
Plaintiffs,)	
v.)	Case No. 11 CV 1370
)	
GARY W. SCHARP,)	
)	
Defendant.)	

AGREED TEMPORARY RESTRAINING ORDER

THIS CAUSE coming on to be heard pursuant to Plaintiff's Motion for a Temporary Restraining Order all parties having been notified and the Court having been fully advised on the premises:

This Court having reviewed Plaintiff's Motion for Temporary Restraining Order in the above cause and reviewed Plaintiff's Motion and Memoranda in Support and the Verified Complaint in the matter with the Defendant agreeing to the entry of the Temporary Restraining Order, closing the Merlin's businesses, and de-identifying the locations in Peoria and East Peoria as a Merlin's, and agreeing to the Non-Compete provisions of the Franchise Agreement;

IT IS HEREBY ADJUDGED, ORDERED AND DECREED AS FOLLOWS:

1. GARY SCHARP, individually, and any of his agents, servants or employees, are hereby enjoined from displaying the MERLIN'S trademarks, and service marks in any manner.
2. Defendant is to cease conducting any similar competing business involving auto repair, on or before October 28, 2011 from the premises located below or within two

(2) miles thereof:

A. 927 E. Washington, East Peoria, IL

B. 2406 N. University, Peoria, IL

3. Due to the termination of the Franchise Agreement and enforcement of the Non-Compete clause therein enjoining former franchisee, Defendant, representatives, current employees, or others acting in concert with Defendant, from competing with MERLIN in a similar competing business for the term of this Order or any extensions thereof.

4. Defendant, and anyone acting in concert with him, is to cease conducting business using the MERLIN'S names on signs, marquees, invoices and/or in any other manner and to cease conducting any similar competing business to the MERLIN'S system now or before October 28, 2011.

5. Defendant is to immediately cease advertising himself as "MERLIN" or "formerly MERLIN" and cease its businesses as a MERLIN auto care facility utilizing the MERLIN trade name, trademarks, service marks, or phone numbers, including 309/ 694-7200 and 309/681-1000. All telephone numbers are to be transferred and assigned to MERLIN. Defendant is to cooperate with MERLIN to transfer the Peoria and East Peoria phone numbers to MERLIN pursuant to the terms of the Franchise Agreement.

6. Defendant, his agents, servants, employees, or anyone acting in concert with him, are enjoined from using MERLIN's registered trademarks and holding themselves out as a MERLIN franchisee or as a former franchisee of MERLIN now or before October 28, 2011.

7. This Temporary Restraining Order shall be effective beyond ten (10) days by

agreement of the parties until October 28, 2011 unless extended by further Order of this Court or entry of a preliminary injunction.

8. This Temporary Restraining Order enjoining Defendant from the above described actions shall run through October 28, 2011. ^{STATUS} Hearing for extension of the Agreed Temporary Restraining Order or entry of a preliminary or permanent injunction is scheduled for October 28, 2011 at 9:00 a.m. in ~~Room~~ by telephone conference

DATED: October 6, 2011

ENTER:

10-7-11 9:10 AM

s/James E. Shadid

U.S. District Judge

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