

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

High Country Investor, Inc.,
Plaintiff,

Civil Action No. 1:10-cv-4-PB

v.

Hilltop Marketplace, LLC.,
Defendant.

ORDER

AND NOW, this 14th day of April 2010, after hearing and consideration, it is hereby Ordered that:

1. Defendant Hilltop Marketplace, LLC ("Defendant"), its members, managers, officers, directors, principals, agents, servants, affiliates, employees, attorneys, representatives, successors and assigns, and all those in privity or acting in concert or participation with Defendant, are hereby permanently enjoined and restrained from all use of "HILLTOP", including any confusingly similar variations, as names or marks or as components of names, marks, email addresses, domain names, social

media or other Internet usernames, or Internet keywords in connection with the operation of any restaurant, deli, take-out, or catering services, or for any food or beverage products.

2. Within five (5) days of service of this Order, Defendant shall remove any signage including but not limited to any building or advertising signage and shall deliver to counsel for Plaintiff for destruction all print and other promotional and marketing materials, including but not limited to signage, brochures and menus, which refer to "HILLTOP" as a name or mark or as a component of a name or mark.

3. Within five (5) days of service of this Order, Defendant shall modify all advertising which has been placed but not yet distributed to eliminate all use of "HILLTOP" and shall recall from all distributors, agents and intermediaries all promotional and marketing material bearing "HILLTOP" that has not yet been distributed to the ultimate customers.

4. Within five (5) days of service of this Order, Defendant shall permanently disable any and all domain names, websites, or social media presences such as Facebook, owned, possessed or controlled by Defendant that use "HILLTOP" in any manner.

5. Within five (5) days of service of this Order, Defendant shall permanently cancel all domain name registrations, social

media or other Internet usernames, and corporate and fictitious name registrations for any names owned, possessed or controlled by Defendant which contain or comprise "HILLTOP" as an element.

6. Within five (5) days of service of this Order, Defendant will take necessary steps to have any third party reviews of itself that use or reference "HILLTOP" as part of a name or mark to refer to Defendant permanently removed. The reviews include, but are not limited to, those posted on www.menupix.com and on www.merchantcircle.com.

7. Defendant shall promptly provide written notice to Plaintiff's counsel of Defendant's new name and mark prior to commercial use of such new name and mark.

8. Within thirty (30) days of service of this Order, Defendant shall provide a declaration to this Court and to counsel for Plaintiff attaching copies of all correspondence pertaining to compliance with this Order and otherwise detailing all of the steps taken to comply with this Order, including but not limited to, providing a copy of the appropriate document evidencing the change of business name filed with the state of New Hampshire.

9. Within thirty (30) days of service of this Order, Defendant shall pay to Plaintiff a sum of money for Plaintiff's

costs of this Action and Plaintiff's attorneys fees in the amount of \$29,384.50 through March 22, 2010.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: April 14, 2010

cc: William P. Breen, Esq.