IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS MAY - 9 2006 EASTERN DIVISION

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FEDERAL TRADE COMMISSION,)
)
Plaintiff,) Civil No.

DATACOM MARKETING

)

and Thesrus Publishing,) COMPLAINT FOR INJUNCTIVE
) AND OTHER EQUITABLE RELIEF
DATACOM DIRECT INC., Ontario)
Corporation No. 1417524,)
an Ontario, Canada, corporation,)
)
BERNARD FXOMSTEIN, individually and as an) owner, officer, or director of the corporate)
defendants, 1
)
JUDY PROVENCHER, individually and as an) owner, officer, or director of the corporate)
defendants,)
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PAUL BARNARD, individually and as an)
owner, officer, or director of the corporate)
defendants,)
)
JUDY NEINSTEIN, individually and as an)
owner, officer, or director of the corporate)
defendants, and 1
)
STANLEY FROMSTEIN, individually and as an) owner, officer, or director of the corporate) defendants,

Defendants.

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its complaint
alleges as follows:
1. The FTC brings this action under Section 13(b) of the Federal Trade Commission
Act ("FTC Act"), 15 U.S.C. 5 53(b), to secure temporary, preliminary, and permanent injunctive relief, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief for defendants' acts or practices in violation of Section 5(a) of the FTC Act,
15 U.S.C. 5 45(a).

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and practices set forth in

officers, employees, and office locations, have commingled funds, are commonly controlled, and have engaged in a common scheme.
COMMERCE

13. At all times relevant to this complaint, defendants have maintained a substantial
course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 5 44.
DEFENDANTS' BUSINESS PRACTICES

14. Since at least 2000, and continuing thereafter, defendants have engaged in a plan,
program, or campaign to sell business directories and/or listings in those directories via interstate telephone calls to various businesses and other organizations ("consumers") throughout the United States.

15. Defendants market their business directories and listings by malung unsolicited
outbound telephone calls to United States consumers. Defendants use a variety of tactics to sell or to induce consumers to pay for their business directories and/or listings in those directories. Typically, defendants7 telemarketers state that they are calling to verify a consumer's name, address, and telephone number for a listing in one of defendants' business directories. Defendants' telemarketers represent, expressly or by implication, that consumers were listed previously in defendants' business directories or that someone in a consumer's organization previously authorized purchasing a directory or listing.
16. In numerous instances, consumers who receive defendants7 telemarketing calls
verify the requested information, mistakenly believing that the consumer has previously been listed in one of defendants' business directories or that someone in the consumer's organization

previously authorized purchasing a directory or listing. In numerous instances, defendants do not disclose a cost for their directories or listings.
17. In numerous instances, once the consumer has confirmed the requested
information, verifiers employed by defendants subsequently call the consumer and again ask the consumer to verify the consumer's name, address, and telephone number. Answers to these
questions are recorded by defendants, who later point to these recordings as evidence that
consumers authorized the purchase of one of defendants' business directories or a listing in a
directory.
18. At the conclusion of the telephone calls recorded by defendants, defendants7
verifiers sometimes quickly mention that one of defendants' business directories will be shipped
to the consumer followed by the delivery of an invoice a short t215 0 Td (ilt901Tc 1.038 r4e 1.43 0 T46o243

20. The delivery of the directory is followed by delivery of an invoice approximately a week later. The invoice indicates that the purchase of the directory was authorized by someone in the consumer's organization, typically the person who received the initial telephone call. The invoice identifies the name of one of d1Te

24. In numerous instances, consumers pay defendants' invoices because they
mistakenly believe that someone within the consumer's organization ordered the business directory, they are unaware that they have been billed for something that they never intended to purchase, or they wish to avoid collection activities by defendants.
VIOLATIONS OF SECTION 5 OF THE FTC ACT
25. Section 5(a)

defendants have represented to consumers, expressly or by implication, through, inter alia, telephone calls, invoices, or letters, that consumers have agreed to purchase defendants7 business directories or a listings in those business directories.
3 1. In truth and in fact, consumers have not agreed to purchase defendants' business
directories or listing in those directories.
32. Therefore, the representation set forth in Paragraph 30 is false and misleading and
constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.
COUNT THREE
33. In numerous instances, in connection with the offering for sale, sale, or
distribution of defendants' business directories, or listings in those business directories, defendants have represented to consumers, expressly or by implication, through, inter alia, telephone calls, invoices, or letters, including letters from third party debt collectors, that consumers owe money to defendants for defendants' business directories and/or listings in those business directories.

34. In truth and in fact, consumers do not owe money to defendants for defendants'
business directories and/or listings in those business directories.
35. Therefore, the representation set forth in Paragraph 33 is false and misleading and
constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act. CONSUMER IN.IURY
36. Consumers throughout the United States have suffered and continue to suffer
substantial monetary loss as a result of defendants' unlawful acts and practices. Absent

injunctive relief from this Court, defendants are likely to continue to injure consumers and to harm the public interest.
THE COURT'S POWER TO GRANT RELIEF

37. Section 13(b) of the FTC Act, 15 U.S.C. 5 53(b), empowers the Court to grant
injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act.
38. The Court, in the exercise of its equitable jurisdiction, may award other ancillary
relief, including, but not limited to, rescission of contracts, restitution, and the disgorgement of ill-gotten gains, to prevent and remedy injury caused by defendants' law violations. PRAYER FOR RELIEF
Wherefore, plaintiff, the Federal Trade Commission, pursuant to Section 13(b) of the
FTC Act, 15 U.S.C. § 53(b), and the Court's equitable powers, requests that this Court:
1. Award plaintiff such temporary and preliminary injunctive and ancillary relief as
may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, temporary and preliminary injunctions, and an order freezing assets;
2. Permanently enjoin defendants from violating the FTC Act, as alleged herein;
3. Award such equitable relief as the Court finds necessary to redress injury to
consumers resulting from defendants' violations of the FTC Act, including, but not limited to, rescission of contracts, restitution, and the disgorgement of ill-gotten gains; and

4. Award plaintiff the costs of bringing this action, as well as such other and additional equitable relief as the Court may determine to be just and proper. Respectfully submitted,
WILLIAM BLUMENTHAL

Dated: t 2.w
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General Counsel

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FEDERAL TRADE COMMISSION