

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION, and
OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA, DEPARTMENT OF
LEGAL AFFAIRS,

Plaintiffs,

v.

BIG DOG SOLUTIONS LLC, also d/b/a Help
Desk National and Help Desk Global, a
Florida limited liability company,

PC HELP DESK US LLC, also d/b/a Help
Desk National and Help Desk Global, a
Florida limited liability company,

INBOUND CALL SPECIALIST LLC, a
Florida limited liability company,

BLACKOPTEK CE INC., a Nevada
corporation,

9138242 CANADA CORPORATION, a
Quebec, Canada corporation,

DIGITAL GROWTH PROPERTIES, LLC, an
Iowa limited liability company,

CHRISTOPHER J. COSTANZA, individual
and as an owner or officer of Big Dog

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Stipulating Defendants participated in deceptive acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and Section 501.204 of the FDUTPA, in the advertising, marketing, promotion, offering for sale, or sale of Tech Support Products or Services.
3. Stipulating Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Stipulating Defendants admit the facts necessary to establish jurisdiction.
4. Stipulating Defendants waive any claim that they may have against Plaintiffs and the Receiver and their employees, representatives, and agents and any claim that Stipulating Defendants may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order. Stipulating Defendants agree to bear their own costs and attorneys' fees.
5. Stipulating Defendants waive all rights to appeal or otherwise to challenge or to contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

1. **“Defendant(s)”** means Big Dog Solutions LLC, PC Help Desk US LLC, Inbound Call Specialist LLC, BlackOptek CE Inc., 9138242 Canada Corporation, Digital Growth Properties, LLC, Christopher J. Costanza, Suzanne W. Harris, Muzaffar Abbas, Gary Oberman, Donald Dolphin, and Justin Powers, individually, collectively, or in any combination.

2. **“Real Property Net Proceeds”** means the total proceeds from the sale or auction of real property after payment of any reasonable and customary fees and costs, including real estate agent fees, auction fees, and escrow costs, incurred in connection with such sale or auction.

3. **“Stipulating Corporate Defendants”** means BlackOptek CE Inc., a Nevada Corporation, 9138242 Canada Corporation, a Quebec, Canada corporation, and Digital Growth Properties, LLC, an Iowa limited liability company, and their successors and assigns, as well as any subsidiaries, affiliates, divisions, or sales or customer service operations, and any fictitious business entities or business names created or used by these entities, and their successors and assigns.

4. **“Stipulating Defendant(s)”** means all of the Stipulating Individual Defendants and the Stipulating Corporate Defendants, individually, collectively, or in any combination.

5. **“Stipulating Individual Defendant(s)”** means Muzaffar Abbas, Gary Oberman, Donald Dolphin, and Justin Powers

6. “

C. Owning, controlling, or serving as an officer, director, or manager of any business entity advertising, marketing, promoting, offering for sale, selling, providing, or assisting or providing consulting services for others engaged in, advertising, marketing, promoting, offering for sale, selling or providing, any Tech Support Product or Service.

promoting, offering for sale, sale, or selling of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

A. That Stipulating Defendants are part of, certified or authorized by, affiliated with, or acting on behalf of any entity; and

B. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

SECTION IV: PROHIBITION AGAINST COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Stipulating Defendants, their officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment for any Tech Support Product or Service sold by any Defendant.

SECTION V: MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Nine Million, Nine Hundred Forty-Eight Thousand, Six Hundred Seventy-Four dollars and Twenty-Eight cents

(\$9,948,674.28) is entered in favor of Plaintiffs and against Stipulating Defendants, jointly and severally, as equitable monetary relief.

B. Defendant Abbas is ordered to pay to the Commission One Hundred Thousand Canadian Dollars (\$100,000.00), which, as Defendant Abbas stipulates, his undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiffs. Upon such payment, and Defendant Abbas's satisfaction of all obligations imposed under Subsection E of this Section, the remainder of the judgment is suspended as to Defendant Abbas, subject to the Subsections below.

C. Defendant Oberman is ordered to pay to the Commission One Hundred Twenty-Five Thousand Canadian Dollars (\$125,000.00), which, as Defendant Oberman stipulates, his undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiffs. Upon such payment, the remainder of the judgment is suspended as to Defendant Oberman, subject to the Subsections below.

D. Defendant Dolphin is ordered to pay to the Commission One Hundred
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repair and to timely pay all taxes, fees, and all other attendant expenses related to

Broad Street at fair market value within 90 days of entry of this Order. In marketing 810 East Broad Street, Defendant Powers is ordered to have 810 East Broad Street listed on the multiple listing service until it is sold;

2. In the event that 810 East Broad Street does not sell as set forth in Subsection V.F.1 of this Order, Defendant Powers is ordered to promptly have 810 East Broad Street auctioned by an auction company at a public auction to be held as soon as practicable and, in any event, not more than 120 days from the date of entry of this Order;

3. Defendant Powers is ordered to keep 810 East Broad Street in good repair and to timely pay all taxes, fees, and all other attendant expenses related to the maintenance and ownership of 810 East Broad Street until paying Plaintiffs as required by this Subsection V.F. . Defendant Powers

expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendants' sworn financial statements and related documents (collectively, "financial statements") submitted to Plaintiffs, namely:

1. The Financial Statement of Individual Defendant Muzaffar Abbas signed on July 8, 2016, including the attachments;

2. The Financial Statement of Individual Defendant Gary Oberman signed on July 26, 2016, including the attachments;

3. The Financial Statement of Individual Defendant Donald Dolphin signed on July 8, 2016, including the attachments;

4. The Financial Statement of Individual Defendant Justin Powers signed on July 9, 2016, including the attachments;

5. The Financial Statement of Corporate Defendant 9138242

any asset, or made any other material misstatement or omission in the financial representations identified above.

J. If the partial suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

SECTION VI: ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Stipulating Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of Plaintiffs, including in a proceeding to enforce their rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. §

such purposes.

D. Stipulating Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which such Defendants previously submitted to Plaintiffs, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

E. All money paid to Plaintiffs pursuant to this Order may be deposited into a fund administered by the Commission or its designee on behalf of both the Commission and the State of Florida. This fund shall be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Stipulating Defendants' practices alleged in the Complaint, relinquish its authority over any portion of the joint monies not used for equitable relief to the State of Florida, or both. Stipulating Defendants shall have no right to challenge the Commission's choice of remedies under this Section. Stipulating Defendants have no right to challenge any actions Plaintiffs or their representatives may take pursuant to this Subsection.

F. All joint funds not used for the equitable relief described above in Paragraph E of this Section shall be distributed between the Commission and the

State of Florida in the following manner:

1. The State of Florida shall be reimbursed for the costs and fees it incurred in this matter including its costs of investigation and litigation, after which,

2. All remaining joint funds shall be divided equally between the Commission and the State of Florida. Any money paid to the Commission not used for equitable relief shall be deposited to the U.S. Treasury as disgorgement.

SECTION VII: DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the Stipulating Individual Defendants' and Defendant 9138242 Canada Corporation's a

shall be entitled to rely upon a letter from Plaintiffs stating that the freeze on a Stipulating Defendant's assets has been lifted.

SECTION VIII: CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants, their officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to administer efficiently consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within fourteen (14) days.

B. Disclosing, using, or benefiting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Stipulating Defendant obtained prior to entry of this Order.

C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the Plaintiffs.

Provided, however, that customer information need not be destroyed, and

may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

SECTION X: TERMINATION OF RECEIVERSHIP

IT IS FURTHER ORDERED that the appointment of Jeffrey Schneider as Receiver over Stipulating Receivership Defendants pursuant to Section VIII of the BlackOptek Preliminary Injunction, is hereby continued in full force and effect except as modified by this Section.

A. The Receiver is directed and authorized to accomplish the following within sixty (60) days after entry of this Order:

1. Complete, as necessary, the liquidation of the assets of the Stipulating Receivership Defendants;

2. Prepare and file with the Court a final report describing the Receiver's activities with respect to Stipulating Receivership Defendants pursuant to this Order and the BlackOptek Preliminary Injunction, and a final application for compensation and expenses; and

3. Upon the Court's approval of the Receiver's final application for compensation and expenses with respect to Stipulating Receivership Defendants, distribute to the Commission any remaining liquid assets at the conclusion of the Receiver's duties.

B. Upon completion of the above tasks, the duties of the Receivership over Stipulating Receivership Defendants shall terminate, and the Receiver shall be discharged as to Stipulating Receivership Defendants only.

SECTION XI: ORDER ACKNOWLEDGEMENTS

IT IS FURTHER ORDERED that Stipulat

SECTION XII: COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Stipulating Defendants make timely submissions to the Commission:

A.

- a. Identify all telephone numbers and all physical, postal, email and Internet

address; or

b. Title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise an

SECTION XIII: RECORDKEEPING

IT IS FURTHER ORDERED that Stipulating Defendants must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, Stipulating Corporate Defendant and each Stipulating Individual Defendant for any business that such Defendant, individually or collectively with any other Defendant, is a majority owner or

statements upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of any Plaintiff, each Stipulating Defendant must submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. Plaintiffs are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, Plaintiffs are authorized to communicate directly with each Stipulating Defendant. Stipulating Defendants must permit representatives of Plaintiffs to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. Plaintiffs may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Stipulating Defendants or any individual or entity affiliated with Stipulating Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D.

Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

SECTION XV: RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED.

Dated: May 11, 2017 oa)(1).