

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 13-cv-1999
)	
v.)	Judge Andrea R. Wood
)	
CONSTRUCT DATA PUBLISHERS, a.s.,)	Magistrate Judge Mason
a foreign corporation, also doing business)	
as FAIR GUIDE, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFAULT JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND OTHER EQUITABLE
RELIEF AGAINST CONSTRUCT DATA PUBLISHERS A.S.**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter against Defendants Construct Data Publishers, a.s., Wolfgang Valvoda, and Susanne Anhorn, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC now having filed its Motion for Entry of Default Judgment and Order for Permanent Injunction and Other Equitable Relief Against Defendant Construct Data Publishers, a.s. (“Defaulting Defendant”), and the Court having considered the FTC’s motion, and supporting exhibits, and the entire record in this matter, the FTC’s motion is hereby granted, and **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the Commission under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b). The Commission's Complaint seeks permanent injunctive relief against Defendants in connection with the offering for sale or sale of Internet directory listings in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and seeks equitable monetary relief in the form of consumer redress and/or disgorgement. Pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), the Commission has the authority to seek the relief contained herein.

2. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the parties hereto.

3. The Commission's Complaint states claims upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).

4. Venue in the United States District Court for the Northern District of Illinois is proper pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b), (c) and (d).

5. The activities of Defendants are "in or affecting commerce" as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6. Defaulting Defendant was properly served with the Summons and Complaint in this matter. On December 16, 2015, the Court granted the motion of counsel for Defaulting Defendant to withdraw, and Defaulting Defendant has been unrepresented since that time. On March 16, 2016, the Court entered default as to Defaulting Defendant pursuant to Fed. R. Civ. P. 55(a).

7. The factual allegations in the Commission's Complaint are taken as true against Defaulting Defendant. Those allegations and the evidence supporting them establish that Defaulting Defendant violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

8. The Court now finds that, in connection with the offering for sale or sale of Business Directory listings, Defaulting Defendant has violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by falsely representing to consumers, expressly or by implication, that consumers have a preexisting business relationship with Defendants.

9. The Court further finds that, in connection with the offering for sale or sale of Business Directory listings, Defaulting Defendant has violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by falsely representing to consumers, expressly or by implication, that Defendants are affiliated or otherwise connected with a particular trade show or exhibition, or the organizer of that event.

10. It is proper to enter this Default Judgment and Order for Permanent Injunction and Other Equitable Relief Against Construct Data Publishers a.s. ("Order") to prevent a recurrence of Defaulting Defendant's violations of the FTC Act, 15 U.S.C. § 45, and to enter equitable monetary relief against Defaulting Defendant.

11. Defendants' net sales to U.S. consumers (total sales minus refunds, returns, and chargebacks) amounted to at least \$7,020,962.75 United States Dollars from the conduct alleged in the Commission's Complaint.

12. The Commission is therefore entitled to equitable monetary relief against Defaulting Defendant in the amount of \$7,020,962.75 United States Dollars, for which Defaulting Defendant is jointly and severally liable.

13. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

14. Entry of this Order is in the public interest.

DEFINITIONS

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

1. **“Business Directory”** means a collection of listings of consumers, providing their location, contact information, and/or other details, in any format, represented to consumers to be available to users or purchasers of consumers’ goods or services, and/or represented to consumers to be for the purpose of promoting consumers’ goods or services.

2. **“Consumer”** includes any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

3. **“Corporate Defendant”** or **“Defaulting Defendant”** means Construct Data Publishers, a.s., also doing business as Fair Guide, and its successors and assigns.

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

5. **“Individual Defendants”** means Wolfgang Valvoda and Susanne Anhorn.

6. **“Person”** includes a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

7. **“Plaintiff”** means the Federal Trade Commission (“FTC” or “Commission”).

I. BAN ON CERTAIN ACTIVITIES

IT IS ORDERED that Defaulting Defendant, whether acting directly or indirectly, is permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting in the advertising, marketing, promoting, offering for sale, or sale of, Business Directories and/or listings in Business Directories.

II. PROHIBITIONS AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defaulting Defendant, its officers, agents, employees, 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, in connection with the advertising, marketing, promoting, offering for sale, or sale of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. That consumers have a preexisting business relationship with any Defendant or any other person;
- B. That Defendants or any other person are affiliated or otherwise connected with a particular trade show or exhibition, or the organizer of that event;
- C. That consumers have agreed to purchase a good or service;
- D. That consumers owe money for a good or service;
- E. The nature of any Defendant's or any other person's relationship with consumers;
- F. The purpose of any communication with consumers; or

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

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Seven Million, Twenty Thousand, Nine Hundred Sixty Two United States Dollars and 75 Cents (\$7,020,962.75 USD), is entered in favor of the Commission against Defaulting Defendant as equitable monetary relief.

B. Defaulting Defendant is ordered to pay to the Commission Seven Million, Twenty Thousand, Nine Hundred Sixty Two United States Dollars and 75 Cents (\$7,020,962.75 USD), less any amounts paid by any other Defendants which would result in total payments to the Commission exceeding \$7,020,962.75. Such payment must be made within 7 days of entry of this Order by electronic funds transfer in accordance with instructions provided by a representative of the Commission.

C. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to 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 Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

Defaulting Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

IV. TURNOVER OF FUNDS IN COURT REGISTRY

IT IS FURTHER ORDERED that, in order to partially satisfy the monetary judgment set forth in Section III above, the Clerk of Court shall turn over to the Commission all funds currently held in the Court registry in connection with this matter, including \$143,752.28 deposited on February 24, 2015 (Doc. 136), \$9966.00 deposited on April 15, 2015 (Doc. 154), and \$190,755.57 deposited on May 12, 2015 (Doc. 161), by wire transfer pursuant to directions provided by counsel for the Commission, or as otherwise agreed to in writing by counsel for the Commission, within 7 days of entry of this Order.

V. PROHIBITIONS REGARDING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defaulting Defendant, its officers, agents, employees, 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. Disclosing, using, or benefitting 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 Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, offering for sale, or sale of Business Directory listings; and

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

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VI. PROHIBITION ON COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Defaulting Defendant, its officers, agents, employees, 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 or collecting payment for any listing in any Business Directory, and from selling, assigning, or otherwise transferring any right to collect payment for any listing in any Business Directory.

VII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defaulting Defendant obtain acknowledgments of receipt of this Order:

A. Defaulting Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Defaulting Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of

the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defaulting Defendant delivered a copy of this Order, Defaulting Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defaulting Defendant make timely submissions to the Commission:

A. One year after entry of this Order, Defaulting Defendant must submit a compliance report, sworn under penalty of perjury. Defaulting Defendant must:

1. identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant;
2. identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant;

4. describe in detail whether and how that Defendant is in compliance with each Section of this Order; and

5. provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 20 years after entry of this Order, Defaulting Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. any designated point of contact; or
2. the structure of Defaulting Defendant or any entity that Defaulting Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defaulting Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defaulting Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Construct Data Publishers, a.s.*, FTC Matter No. X130040.

IX. RECORDKEEPING

IT IS FURTHER ORDERED that Defaulting Defendant must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Defaulting Defendant must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement or other marketing material.

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defaulting Defendant's compliance with this Order 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 the Commission, Defaulting 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. The Commission is 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, the Commission is authorized to communicate directly with Defaulting Defendant. Defaulting Defendant must permit representatives of the Commission to interview any employee or other person affiliated with Defaulting Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defaulting Defendant or any individual or entity affiliated with Defaulting Defendant, 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.

XI. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the assets of Defaulting Defendant shall remain in effect until the Commission has received the total amount required by Section III above, *provided, however*, that Defaulting Defendant may transfer funds to the extent necessary to make all payments required by Section III. Upon payment to the Commission of the total amount required by Section III above, the freeze against the assets of Defaulting Defendant shall be lifted permanently.

XII. 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 this 25th day of August, 2016.



Honorable Andrea R. Wood
United States District Judge