

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WEBSOURCE MEDIA, L.L.C., et al.,

Defendants.

Civ. No.: H-06-1980

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION
AGAINST JAMES E. McCUBBIN, JR.**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Amended Complaint for a permanent injunction and other equitable relief in this matter pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 53(b) charging the Defendants WebSource Media, L.L.C., WebSource Media L.P., BizSitePro, L.L.C., Eversites, L.L.C., Telsource Solutions, Inc., Telsource International, Inc., Marc R. Smith, Kathleen A. Smalley, Keith D. Hendrick, Steven L. Kennedy, John O. Ring, and James E. McCubbin, Jr. (“Named Defendants”), with unfair and deceptive acts and practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. The Named Defendants have all denied the allegations in the Amended Complaint.

Plaintiff Commission, by and through its attorneys, and Defendant James E. McCubbin, Jr., have agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction (“Final Judgment and Order”) by this Court in order to resolve all claims against Defendant

James E. McCubbin, Jr., in this action. The Commission and Defendant James E. McCubbin, Jr., have consented to entry of this Final Judgment and Order without trial or adjudication of any issue of law or fact herein and without Defendant James E. McCubbin, Jr., admitting liability for any of the violations alleged in the Amended Complaint.

Being fully advised in the premises and acting upon the joint motion of the parties to enter this Final Judgment and Order,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over Defendant James E. McCubbin, Jr.;
2. The Complaint states a claim upon which relief may be granted against Defendant James E. McCubbin, Jr., under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b);
3. Venue in this district is proper under 28 U.S.C. § 1391(b) and 15 U.S.C. § 53(b);
4. The activities of Defendant James E. McCubbin, Jr., are “in or affecting commerce” as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
5. Entry of this Final Judgment and Order is in the public interest;
6. Defendant James E. McCubbin, Jr., has read and fully understands the Complaint against him and the provisions of this Final Judgment and Order, and he freely enters into this Final Judgment and Order; and
7. Defendant James E. McCubbin, Jr., has waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review or otherwise challenge the validity of this Final Judgment and Order. The parties shall each bear their own costs and attorney’s fees incurred in this action. Nothing herein shall prohibit any Named Defendant from

pursuing any claims it may have against any other Named Defendant for any other legal and/or equitable relief, including but not limited to attorneys' fees, indemnity, and contribution.

DEFINITIONS

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

A. **"Assets"** means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," "notes" (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located.

B. **"Named Defendants"** means WebSource Media, L.L.C., WebSource Media L.P., BizSitePro, L.L.C., Eversites, L.L.C., Telsource Solutions, Inc., Telsource International, Inc., Marc R. Smith, Kathleen A. Smalley, Keith D. Hendrick, Steven L. Kennedy, John O. Ring, and James E. McCubbin, Jr.

C. **"Assisting others"** means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing or billing services of any kind.

D. **"Document"** is synonymous in meaning and equal in scope to the usage of the term "documents or electronically stored information" in Federal Rule of Civil Procedure 34(a),

