

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RECEIVED

MAR X 9 2015

THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMERICAN YELLOW BROWSER, INC.,  
a Delaware corporation,

AMERICAN YELLOW GROUP INC.,  
a Delaware corporation,

DISTRIBUTION H.E.P. INC.,  
a Quebec, Canada, corporation, also doing  
business as American Yellow Distribution  
and Medical Yellow Directories Inc.,

OFFICIAL YELLOW GUIDE INC.,  
a Delaware corporation,

PUBLICATION A.A.P. INC.,  
a Quebec, Canada, corporation, also doing  
business as All American Pages and  
Official Yellow Guide,

PUBLICATION A.Y.B. INC.,  
a Quebec, Canada, corporation, also doing  
business as American Yellow Browser Inc.,  
American Yellow Group Inc., and All  
American Pages Inc.,

PUBLICATIONS A.Y.D. INC.,  
a Quebec, Canada, corporation,

IVAN CHERNEV, individually and as an officer  
of American Yellow Browser, Inc.,  
Distribution H.E.P. Inc., Publication  
A.A.P. Inc., and Publication A.Y.B. Inc.,  
and also doing business as American Yellow  
Corporation Inc., General Credit

Case No.

15CV2047  
JUDGE NORGLÉ  
MAG. JUDGE COLE

Protection Inc., and Credit Bureau )  
 Recovery, and )  
 )  
 GERMAN LEBEDEV, individually and as an )  
 officer of American Yellow Browser, Inc., )  
 Publication A.A.P. Inc., Publication )  
 A.Y.B. Inc., and Publications A.Y.D. Inc., )  
 and also doing business as American )  
 Yellow Directories Inc., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**COMPLAINT FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b), (c), and (d) and 15 U.S.C. § 53(b).

**PLAINTIFF**

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

### **DEFENDANTS**

6. Defendant American Yellow Browser, Inc., is a Delaware corporation with its registered address at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. American Yellow Browser transacts or has transacted business in this district and throughout the United States.

7. Defendant American Yellow Group Inc. is a Delaware corporation with its registered address at 341 Raven Circle, Wyoming, Delaware 19934. American Yellow Group transacts or has transacted business in this district and throughout the United States.

8. Defendant Distribution H.E.P. Inc., also doing business as American Yellow Distribution and Medical Yellow Directories Inc., is a Quebec, Canada, corporation, with its address at 807-603 rue Robert-Elie, Laval, Quebec H7NY39, Canada. Distribution H.E.P. transacts or has transacted business in this district and throughout the United States.

9. Defendant Official Yellow Guide Inc. is a Delaware corporation with its registered address at 341 Raven Circle, Wyoming, Delaware 19934. Official Yellow Guide transacts or has transacted business in this district and throughout the United States.

10. Defendant Publication A.A.P. Inc., also doing business as All American Pages and Official Yellow Guide, is a Quebec, Canada, corporation, with its address at 302-2101 boul. Rene-Levesque O, Montreal, Quebec H3H2P9, Canada. Publication A.A.P. transacts or has transacted business in this district and throughout the United States.

11. Defendant Publication A.Y.B. Inc., also doing business as American Yellow Browser, Inc., American Yellow Group Inc., and All American Pages Inc., is a Quebec, Canada, corporation, with its address at 302-2101 boul. Rene-Levesque O, Montreal, Quebec H3H2P9, Canada. Publication A.Y.B. transacts or has transacted business in this district and throughout the United States.

12. Defendant Publications A.Y.D. Inc. is a Quebec, Canada, corporation, with its address at 7-4631 18e Avenue, Montreal, Quebec H1X2N6, Canada. Publications A.Y.D. transacts or has transacted business in this district and throughout the United States.

13. Defendant Ivan Chernev is or has been an owner, officer, or director of American Yellow Browser, Inc., Distribution H.E.P. Inc., Publication A.A.P Inc., and Publication A.Y.B. Inc. and also is doing, or has done, business as American Yellow Corporation Inc., General Credit Protection Inc., and Credit Bureau Recovery. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Chernev, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States. Among other things, Defendant Chernev has arranged for telephone service and opened and paid for mailboxes at commercial mail receiving agencies that Defendants use to receive payments from consumers to whom Defendants have sent invoices and collection notices.

14. Defendant German Lebedev is or has been an owner, officer, or director of American Yellow Browser, Inc., Publication A.A.P. Inc., Publication A.Y. B. Inc., and Publications A.Y.D. Inc. and also is doing, or has done, business as American Yellow Directories Inc. At all times material to this Complaint, acting alone or in concert with others, he

has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Lebedev, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States. Among other things, Defendant Lebedev has opened and paid for mailboxes at commercial mail receiving agencies that Defendants use to receive payments from consumers to whom Defendants have sent invoices and collection notices.

15. Defendants American Yellow Browser, Inc., American Yellow Group Inc., Distribution H.E.P. Inc., Official Yellow Guide Inc., Publication A.A.P. Inc., Publication A.Y.B. Inc., and Publications A.Y.D. Inc., (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the deceptive acts and practices alleged below. Defendants have conducted the business practices described below through an interrelated network of companies that have common officers, managers, business functions, employees, and office locations, and that have commingled funds. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Chernev and Lebedev have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

## COMMERCE

16. At all times material 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. § 44.

### DEFENDANTS’ BUSINESS ACTIVITIES

17. Since at least 2009, Defendants have engaged in a plan, program, or campaign to induce small businesses and nonprofit organizations throughout the United States to pay invoices for purported listings in business directories. Those targeted by Defendants include small businesses, doctors and dentists’ offices, churches, and retirement homes (hereinafter, “consumers”).

18. Defendants conduct their plan, program, or campaign using a host of business names, including All American Pages, American Yellow Browser, American Yellow Corporation, American Yellow Directories, American Yellow Distribution, American Yellow Group, Medical Yellow Directories, Official Yellow Guide, Credit Bureau Recovery, and General Credit Protection.

19. Defendants send unsolicited invoices to consumers throughout the United States requesting payment by check or credit card for a directory listing. Defendants do not make a telephone sales call or otherwise attempt to sell the directory listing identified in the invoice prior to sending the invoice. Often, the invoice creates the appearance of a prior sale by listing the name of a person from the business as a “Contact Name” and showing the listing as it purportedly would appear in Defendants’ directory.

20. Typically, Defendants' invoices are one-page pre-printed forms that bear one of the many business names used by Defendants. These various names often include the word "American," although Defendants actually are located in Quebec, Canada.

21. The business names used on Defendants' invoices typically also include the word "Yellow," such as American Yellow Group or American Yellow Browser, suggesting that the invoices are bills for Yellow Page listings. The invoices also deceptively display the well-known image of two "walking fingers," a symbol commonly associated with established Yellow Page directories. Defendants are not affiliated with a telephone company or a Yellow Page directory.

22. Defendants' invoices also list an address for the business name appearing on the invoice. The listed address is actually the address of a commercial mail receiving agency used by Defendants to receive and to forward mail to Quebec. Defendants have used commercial mail receiving agencies throughout the United States, including agencies in Chicago, Illinois, and listed the addresses of those agencies on their invoices.

23. Many consumers believe that Defendants' invoices are simply bills for a listing in a directory that the consumer had previously agreed to purchase. Providing the name of an individual within the business or organization as a contact and showing how the listing will appear leads many consumers to believe that someone within their business or organization previously authorized or purchased the listing.

24. Defendants' invoices request payment in amounts such as \$480.95 or \$486.95 for a one-year directory listing. The invoices direct recipients to send payment by check to the business name and corresponding United States address shown on the invoice or to send a credit card payment to the facsimile number on the invoice. The United States address shown on the

invoices is the address of one of the many commercial mail receiving agencies that the Defendants use to receive mail and to forward that mail to their location in Quebec, Canada.

25. Some consumers pay Defendants' invoices not realizing that no one in the organization ever purchased or agreed to pay for the listing.

26. Other consumers, however, ignore or otherwise refuse to pay Defendants' invoices. In these instances, Defendants follow the initial invoices with subsequent notices aggressively seeking payment. The notices attempt to intimidate consumers into paying the invoices with, among other things, large print statements such as "COLLECTION WARNING" and "LAST CHANCE TO PROTECT YOUR CREDIT SCORE IN GOOD STANDING!!!" The collection notices often demand payment of an amount that far exceeds the amount demanded by the earlier invoices, such as \$2385.95. The collection notices do not explain the reason for the higher amount.

27. If consumers still refuse to pay, Defendants pretend that they have sent the account to a third-party debt collector. Using the name General Credit Protection Inc.-Credit Bureau Recovery, Defendants pose as a third-party debt collector and send additional dunning notices which indicate that collection procedures have been initiated and that the past-due amount must be paid immediately. The dunning notices demand that immediate payment be made to the purported "client," which is simply one of Defendants' many business names, that sent the original invoice.

28. In response to correspondence forwarding consumer complaints, Defendants have informed Better Business Bureaus and Attorneys General that they will cease demanding payment and remove the complaining consumer from their customer lists. Despite Defendants' claims, Defendants continue sending invoices to the complaining consumers.



## VIOLATIONS OF THE FTC ACT

29. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

30. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

### COUNT I

31. In numerous instances in connection with the marketing, promotion, offering for sale, or sale of business directory listings, Defendants have represented, directly or indirectly, expressly or by implication, through, among other things, invoices and collection notices, that consumers have agreed to purchase a listing in Defendants’ business directory.

32. In truth and in fact, in numerous instances in which Defendants have made the representation set forth in Paragraph 31 of this Complaint, consumers have not agreed to purchase a listing in Defendants’ business directory.

33. Therefore, Defendants’ representation as set forth in Paragraph 31 of this Complaint is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT II

34. In numerous instances in connection with the marketing, promotion, offering for sale, or sale of business directory listings, Defendants have represented, directly or indirectly, expressly or by implication, through, among other things, invoices and collection notices, that consumers owe money to Defendants for a listing in Defendants’ business directory.

35. In truth and in fact, in numerous instances in which Defendants have made the representation set forth in Paragraph 34 of this Complaint, consumers do not owe money to Defendants for a listing in Defendants' business directory.

36. Therefore, Defendants' representation as set forth in Paragraph 34 of this Complaint is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **CONSUMER INJURY**

37. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

### **THIS COURT'S POWER TO GRANT RELIEF**

38. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such 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;

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

C. Award such 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 or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

JONATHAN E. NUECHTERLEIN  
General Counsel

Dated: March 9, 2015

  
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