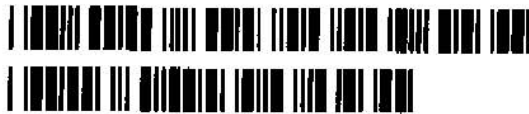


Honorable Ronald B. Leighton

FILED	LOGGED
RECEIVED	
MAY 11 2004	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY



03-CV-01294-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMBUS REGISTRY, INC., a corporation;
SUKHRAJ SINGH CHANA, individually and
as a director and officer of Ambus Registry,
Inc.; and GARTHER CHEUNG, individually
and as a director and officer of Ambus
Registry, Inc.,

Defendants.

Case No.
CV03-1294RBL

**AMENDED STIPULATED FINAL
JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION**

Plaintiff Federal Trade Commission ("Commission" or "FTC"), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), filed a complaint for injunctive and other equitable relief, including consumer redress, charging defendants Ambus Registry, Inc., Sukhraj Singh Chana, and Garther Cheung (hereinafter referred to collectively as "defendants") with deceptive acts and practices in connection with the telemarketing of defendants' business directory and/or listing in the business directory to consumers. The Commission's complaint alleges that defendants' deceptive acts and practices violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The Commission and defendants, having been represented by counsel and acting by and through such counsel, have consented to the entry of this Stipulated Final Judgment and Order for Permanent Injunction ("Order"), which resolves all matters and claims in dispute between them arising

FEDERAL TRADE COMMISSION
915 Second Ave., Su. 2896
Seattle, Washington 98174
(206) 220-6350

1 from the Complaint up to the date of entry of this Order, on the following terms and conditions,
2 without a trial or adjudication of any issue of law or fact.

3 NOW, THEREFORE, the Commission and defendants having requested the Court to enter this
4 Order, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

5 **FINDINGS**

- 6 A. This is an action by the Commission instituted under Section 13(b) of the FTC Act, 15
7 U.S.C. § 53(b). Pursuant to this section, the Commission has the authority to seek the
8 relief contained herein.
- 9 B. The Commission's complaint states a claim upon which relief may be granted against
10 defendants under Sections 5(a) and 13(b) of the Federal Trade Commission Act, 15
11 U.S.C. §§ 45(a) and 53(b).
- 12 C. This Court has jurisdiction over the subject matter of this case and all parties hereto.
13 Venue in the Western District of Washington at Seattle is proper.
- 14 D. The alleged activities of defendants are in or affecting commerce, as defined in Section
15 4 of the FTC Act, 15 U.S.C. § 44.
- 16 E. The parties shall each bear their own costs and attorney's fees incurred in this action and
17 have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412,
18 *amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996)*, and all rights to seek
19 judicial review or otherwise to challenge the validity of this Order.
- 20 F. This Order does not constitute, and shall not be interpreted to constitute, either an
21 admission by defendants or a finding by the Court that defendants have engaged in any
22 violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), or any other law or
23 regulation.
- 24 G. Entry of this Order is in the public interest.

25 **ORDER**

26 **I. BAN**

27 **IT IS THEREFORE ORDERED** that defendants, and their officers, agents, servants,
28

1 employees, and those persons in active concert or participation with them who receive actual notice of
2 this Order by personal service or otherwise, are hereby permanently restrained and enjoined from
3 engaging, participating or assisting others in the advertising, promoting, telemarketing, offering for
4 sale, sale or distribution of business directories and/or listings in business directories to U.S. residents.

5 II. PROHIBITED BUSINESS ACTIVITIES

6 **IT IS FURTHER ORDERED** that defendants, and their officers, agents, servants, employees,
7 and those persons in active concert or participation with them who receive actual notice of this Order
8 by personal service or otherwise, in connection with the telemarketing of any item, product, good or
9 service to U.S. residents, are hereby permanently restrained and enjoined from:

10 A. Misrepresenting, directly or by implication, any material fact regarding the item,
11 product, good or service;

12 B. Failing to disclose in a clear and conspicuous manner, prior to charging a consumer, all
13 material terms, conditions, and limitations of any refund or guarantee policy, or any policy of non-
14 refundability;

15 C. Misrepresenting, directly or by implication, the terms, conditions, and limitations of any
16 refund or guarantee policy, including that consumers can readily obtain refunds upon request;

17 D. Violating the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, including any
18 amendments thereto; and

19 E. Assisting others who violate any provision of Section II.A-D of this Order.

20 III. SUSPEND COLLECTION ON ACCOUNTS

21 **IT IS FURTHER ORDERED** that defendants, and their officers, agents, servants, employees,
22 and those persons in active concert or participation with them who receive actual notice of this Order
23 by personal service or otherwise, are hereby permanently restrained and enjoined from attempting to
24 collect payment for the defendants' business directory and/or listing in the directory, directly or through
25 any collection agent, on any account receivable existing on June 18, 2003. Defendants, within thirty
26 (30) days of the date of entry of this Order, shall provide to the Commission the names, addresses, and
27 telephone numbers of all consumers whose accounts are subject to this provision.
28

1
2
3
4
5
6
7
8
9
10
11
12

IV. DISCLOSURE OF CONSUMER LISTS

IT IS FURTHER ORDERED that defendants, and their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address or other identifying information of any person who paid any money to any defendant at any time prior to entry of this Order in connection with advertising, promoting, telemarketing, offering for sale, sale or distribution of business directories and/or listings in business directories to U.S. residents. *Provided, however,* that defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation or court order.

V. RIGHT TO REOPEN

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that, by agreeing to this Order, defendants reaffirm and attest to the truthfulness, accuracy, and completeness of the Financial Disclosure Forms executed on July 7 and July 10, 2003, and supplemental information subsequently provided to the FTC (hereinafter collectively referred to as "Financial Disclosure Forms"). Plaintiff's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of defendants' financial condition as represented in the Financial Disclosure Forms referenced above, which contain material information upon which plaintiff relied in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission, this Court finds that one or more defendants failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the Financial Disclosure Forms, the Court shall enter judgment against the offending defendants, in favor of the Commission, in the amount of \$2,397,386 (US), less the dollar amount of all uncashed checks and other negotiable instruments referenced in Section VI of this Order; *provided, however,* that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and *provided further,* that proceedings instituted under this Section are in addition to and not in lieu of any other civil or criminal remedies as may be provided by law, including any other proceedings the Commission may initiate to enforce this Order. Solely for

1 purposes of this Section, defendants waive any right to contest any of the allegations in the
2 Commission's complaint.

3 **VI. RETURN OF MAIL**

4 **IT IS FURTHER ORDERED** that:

5 A. The Commission shall return, or arrange to have returned, to consumers all uncashed
6 checks and other negotiable instruments in the Commission's possession that were sent to defendant
7 Ambus Registry, Inc., in response to defendants' telemarketing of its business directory and/or listing
8 in the directory to U.S. residents, including all such mail delivered to a U.S. Post Office or private mail
9 box address. Along with each uncashed check or other negotiable instrument, the Commission shall
10 send a notice, in the form of Attachment A, to each consumer specifically disclosing the allegations of
11 Section 5 violations related to defendants' business directory/listing scheme, the existence of the court
12 settlement with the Commission to resolve such allegations, and defendants' prohibition against
13 operating future business directory/listing schemes; and

14 B. The defendants shall forfeit all rights and interests in any uncashed check and other
15 negotiable instrument sent to defendant Ambus Registry, Inc., in response to defendants' telemarketing
16 of its business directory and/or listing in the directory to U.S. residents.

17 **VII. MONITORING COMPLIANCE OF SALES PERSONNEL**

18 **IT IS FURTHER ORDERED** that defendants, in connection with any business where (1) any
19 defendant is the majority owner of the business, or directly or indirectly manages or controls the
20 business, and (2) the business is engaged in telemarketing to U.S. residents or assisting others engaged
21 in said business, are hereby permanently restrained and enjoined from:

22 A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and
23 independent contractors engaged in sales or other customer service functions comply with Section II of
24 this Order. Such steps shall include adequate monitoring of sales presentations or other calls with
25
26
27
28

1 customers, and shall also include, at a minimum, the following: (1) listening to the oral representations
2 made by persons engaged in sales or other customer service functions; (2) establishing a procedure for
3 receiving and responding to customer complaints; and (3) ascertaining the number and nature of
4 complaints regarding transactions in which each employee or independent contractor is involved;
5 *provided* that this Section does not authorize or require any defendant to take any steps that violate any
6 federal, state or local laws;

7 B. Failing promptly to investigate fully any consumer complaint received by any business
8 to which this Section applies; and

9 C. Failing to take corrective action with respect to any sales person whom defendants
10 determine is not complying with this Order, which may include training, disciplining, and/or
11 terminating such sales person.

12 VIII. COMPLIANCE REPORTING BY DEFENDANTS

13 **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order
14 may be monitored:

15 A. For a period of three (3) years from the date of entry of this Order, defendants shall
16 notify the Commission of the following:

17 1. Any changes in any individual defendant's residence, mailing addresses, and
18 telephone numbers within ten (10) days of the date of such change;

19 2. Any changes in any individual defendant's employment status (including self-
20 employment) within ten (10) days of the date of such change. Such notice shall include the
21 name and address of each business that defendant is affiliated with, employed by or performs
22 services for; a statement of the nature of the business; and a statement of defendant's duties and
23 responsibilities in connection with the business;

24 3. Any changes in any individual defendant's name or use of any aliases or
25 fictitious names; and

26 4. Any changes in the corporate defendant's corporate structure that may affect
27 compliance obligations under this Order including, but not limited to, a dissolution, assignment,
28 sale, merger or other action that would result in the emergence of a successor corporation; the

1 creation or dissolution of a subsidiary, parent or affiliate that engages in any acts or practices
2 subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name and
3 address, at least thirty (30) days prior to such change, *provided* that, with respect to any
4 proposed change in the corporation about which the defendant learns less than thirty (30) days
5 prior to the date such action is to take place, defendant shall notify the Commission as soon as
6 practicable after obtaining such knowledge;

7 B. One hundred eighty (180) days after the date of entry of this Order, each defendant shall
8 provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the
9 manner and form in which they have complied and are complying with this Order. This report shall
10 include, but not be limited to:

11 1. Any changes required to be reported pursuant to Section VIII.A of this Order;

12 and

13 2. A copy of each acknowledgment of receipt of this Order obtained by defendants
14 pursuant to Section XI of this Order;

15 C. For the purposes of this Order, defendants shall, unless otherwise directed by the
16 Commission's authorized representatives, mail all written notifications to the Commission to:

17 Regional Director
18 Federal Trade Commission
19 915 Second Avenue, Room 2896
20 Seattle, WA 98174

21 *Re: FTC v. Ambus Registry, Inc., et al., CV03-1294R*

22 D. For purposes of the compliance reporting required by this Section, the Commission is
23 authorized to communicate directly with defendants in writing provided that the Commission will send
24 copies of all such correspondence to defendants' counsel.

25 IX. COMPLIANCE MONITORING

26 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
27 compliance with any provision of this Order:

28 A. Within ten (10) days of receipt of written notice from a representative of the
Commission, each defendant shall submit additional written reports, sworn to under penalty of perjury;
produce documents for inspection and copying; appear for deposition; and/or provide entry during

1 normal business hours to any U.S. business location in such defendant's possession, or direct or
2 indirect control, to inspect the business operation;

3 B. In addition, the Commission is authorized to monitor compliance with this Order by all
4 other lawful means including, but not limited to, the following:

5 1. Obtaining discovery from any person, without further leave of court, using the
6 procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and

7 2. Posing as consumers and suppliers to defendants, defendants' employees, or any
8 other entity managed or controlled, in whole or in part, by defendants, without the necessity of
9 identification or prior notice;

10 *Provided* that nothing in this Order shall limit the Commission's lawful use of compulsory process,
11 pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to obtain any documentary
12 material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in
13 or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)); and

14 C. Defendants shall permit representatives of the Commission to interview any employer,
15 consultant, independent contractor, representative, agent or employee who has agreed to such an
16 interview, relating in any way to any conduct subject to this Order. The person interviewed may have
17 counsel present.

18 X. RECORD KEEPING

19 **IT IS FURTHER ORDERED** that, for a period of six (6) years from the date of entry of this
20 Order, defendants and their agents, employees, officers, corporations, successors, and assigns, and
21 those persons in active concert or participation with them who receive actual notice of this Order by
22 personal service or otherwise, in connection with any business where (1) any defendant is the majority
23 owner of the business, or directly or indirectly manages or controls the business, and (2) the business is
24 engaged in telemarketing to U.S. residents, or in assisting others engaged in said business, are hereby
25 restrained and enjoined from failing to create and retain the following records:

26 A. Accounting records that reflect the cost of goods or services sold, revenues generated,
27 and the disbursement of such revenues;

28 B. Personnel records accurately reflecting: the name, address, and telephone number of

1 each person employed in any capacity by such business, including as an independent contractor; that
2 person's job title or position; the date upon which the person commenced work; and the date and reason
3 for the person's termination, if applicable;

4 C. Customer files containing the names, addresses, telephone numbers, dollar amounts
5 paid, quantity of items or services purchased, and description of items or services purchased, to the
6 extent such information is obtained in the ordinary course of business;

7 D. Complaints and refund requests (whether received directly, indirectly or through any
8 third party) and any responses to those complaints or requests; and

9 E. Copies of all sales scripts, training materials, advertisements or other marketing
10 materials.

11 **XI. DISTRIBUTION OF ORDER BY DEFENDANTS**

12 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this
13 Order:

14 A. Defendant Ambus Registry, Inc., shall deliver a copy of this Order to all principals,
15 officers, directors, managers, employees, agents, and representatives having responsibilities with
16 respect to any conduct related to the subject matter of this Order, and shall secure from each such
17 person a signed and dated statement acknowledging receipt of the Order. Ambus Registry, Inc., shall
18 deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and
19 to new personnel within thirty (30) days after the person assumes such position or responsibilities; and

20 B. Defendants Sukhraj Singh Chana and Garther Cheung shall deliver a copy of this Order
21 to the principals, officers, directors, managers, and employees under their control for any business
22 engaged in conduct related to the subject matter of this Order and (1) that such defendant owns or
23 controls, or (2) that employs or contracts for personal services with such defendant. Sukhraj Singh
24 Chana and Garther Cheung shall secure from each person a signed and dated statement acknowledging
25 receipt of the Order within thirty (30) days after the date of service of the Order or the commencement
26 of the employment relationship.

27 **XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

28 **IT IS FURTHER ORDERED** that each defendant, within five (5) business days of receipt of

1 this Order as entered by the Court, must submit to the Commission a truthful sworn statement
2 acknowledging receipt of this Order.

3 **XIII. RETENTION OF JURISDICTION**

4 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for
5 purposes of construction, modification, and enforcement of this Order.

6
7 **SO ORDERED**, this 11th day of May, 2004, at _____, 2003, at _____ .m.

8
9 

10 THE HONORABLE RONALD B. LEIGHTON
11 UNITED STATES DISTRICT JUDGE

12 Presented by:

13
14 s/ Kathryn C. Decker
15 Kathryn C. Decker, WSBA #12389
16 Eleanor Durham
17 915 Second Avenue, Suite 2896
18 Seattle, WA 98174
19 206-220-4486 (Decker)
20 206-220-4476 (Durham)
21 206-220-6366 (fax)
22 kdecke@ftc.gov
23 Attorneys for Plaintiff
24 Federal Trade Commission

14 s/ Jordan Gross
15 Harold Malkin, WSBA #30986
16 Jordan Gross, WSBA #23398
17 Yarmuth Wilsdon Calfio, PLLC
18 1201 Third Avenue, Suite 3080
19 Seattle, WA 98101
20 206-516-3875
21 206-516-5888 (fax)
22 Attorneys for Defendants
23 Ambus Registry, Inc., Garther Cheung,
24 and Sukhraj Singh Chana

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMBUS REGISTRY, INC., a corporation;
SUKHRAJ SINGH CHANA, individually and
as a director or officer of Ambus Registry, Inc.;
and GARTHER CHEUNG, individually and
as a director or officer of Ambus Registry, Inc.,

Defendants.

Case No.
CV03-1294R

NOTICE

On June 16, 2003, the Federal Trade Commission ("FTC") filed suit in the United States District Court, Western District of Washington, at Seattle, against Ambus Registry, Inc., Sukhraj Singh Chana, and Garther Cheung ("defendants"), Case Number CV03-1294R, in regards to violations of the Federal Trade Commission Act. The allegations were that the defendants misrepresented that consumers had: (1) previously authorized the purchase of the American Business Registry and a listing in the directory; (2) agreed to purchase the American Business Registry and a listing in the directory; and (3) the right to cancel their purchase of the American Business Registry and listing in the directory without financial obligation.

The defendants have settled this lawsuit with the FTC and have agreed to permanently cease marketing business directories and listings in business directories. Pursuant to that settlement

1 agreement, enclosed find the uncashed check/money order that you forwarded to Ambus Registry, Inc.,
2 for the purchase of the American Business Registry and/or listing in the American Business Registry.

3 If you have any questions about this notice or the return of your check, please contact:

4 Kathryn C. Decker
5 Federal Trade Commission
6 915 Second Avenue, Suite 2896
7 Seattle, WA 98174
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28