

herein, and being fully advised in the premises, it is now **ORDERED, ADJUDGED AND DECREED** as follows:

1. This Court has jurisdiction over the subject matter of this case, and over the parties hereto;
2. Venue properly lies with this Court;
3. There is good cause to believe that Defendants have engaged in, and are likely to engage in the future in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Commission is therefore likely to prevail on the merits of this action;
4. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), unless Defendants are restrained and enjoined by Order of this Court;
5. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets or records unless Defendants are immediately restrained and enjoined by Order of this Court. Therefore, there is good cause for the entry of the ancillary relief contained in this Order, including freezing Defendants' assets and prohibiting Defendants from destroying records;
6. There is good cause for issuing this Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65(b);
7. Weighing the equities and considering the Commission's likelihood of ultimate success, this Preliminary Injunction with asset freeze and other equitable relief is in the public interest; and

8. No security is required of any agency of the United States for the issuance of a Preliminary Injunction. Fed. R. Civ. P. 65(c).

DEFINITIONS

For purposes of this Preliminary Injunction (“Order”), the following definitions shall apply:

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

10. “**Assisting others**” includes, but is not limited to: (1) providing administrative services, including, but not limited to, filing business registrations with federal, state, or local government entities; (2) acting as an officer, director, or registered agent of a business entity; (3) establishing bank and/or merchant accounts; (4) handling banking transactions; (5) providing printing or mailing services; (6) establishing mail accounts and/or mail receiving boxes; (7) forwarding mail received from consumers; (8) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (9) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (10) providing names of, or assisting in the generation of, potential customers; (11) performing or providing marketing or billing services of any kind; or (12) providing telemarketing services.

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

12. **“Customer”** means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by any Defendant.

13. **“Individual Defendants”** means Wolfgang Valvoda and Susanne Anhorn, and by whatever other names each may be known.

14. **“Corporate Defendant”** means Construct Data Publishers a.s., also doing business as Fair Guide, and its successors and assigns, as well as any subsidiaries, and any fictitious business entities or business names created or used by this entity.

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

16. **“Document”** or **“documents”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, Internet sites, web pages, websites, electronic correspondence, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

17. **“Financial institution”** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

18. **“Material”** means likely to affect a person's choice of, or conduct regarding, goods or services.

19. **“Person”** or **“persons”** means 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.

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

21. **“Telemarketing”** means a plan, program, or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) which is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

22. **“Website”** means a set of electronic documents, usually a home page and subordinate pages, readily viewable on a computer by anyone with access to the world wide web, standard software, and knowledge of the website's location or address.

23. **“World wide web”** means a system used on the Internet for cross-referencing and retrieving information.

I.

PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promoting, offering for sale, sale, or provision of any good or service, including, but not limited to, the offering for sale or sale of Internet directory

listings, are hereby restrained and enjoined from misrepresenting, or assisting others in misrepresenting, either orally or in writing, expressly or by implication, any material fact, including, but not limited to:

- A. That consumers have a preexisting business relationship with Defendants; and
- B. That Defendants are affiliated or otherwise connected with a particular trade show or exhibition, or the organizer of that event; and
- C. The nature of Defendants' relationship with consumers, and the purpose of their communication with consumers.

II.

POSTING NOTICE OF LAWSUIT ON WEBSITE

IT IS FURTHER ORDERED that, immediately upon entry of this Order, Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, and any other person or entity served with a copy of this Order, shall immediately take whatever action is necessary to ensure that any website used by any Defendant for the offering for sale, sale, or posting of Internet directory listings, including, but not limited to, the website located at www.fairguide.com, shall prominently display the following statement:

The Federal Trade Commission ("FTC") has filed a lawsuit against Construct Data Publishers a.s., also doing business as Fair Guide; Wolfgang Valvoda; and Susanne Anhorn, alleging that they have engaged in deceptive practices relating to the offering for sale and sale of Internet directory listings. The United States District Court for the Northern District of Illinois has issued a preliminary injunction prohibiting the alleged practices. You may obtain additional information directly from the FTC at <http://www.ftc.gov/opa/2013/03/fairguide.shtm>.

Each website carrying this message shall also provide a hypertext link to the FTC's website at <http://www.ftc.gov/opa/2013/03/fairguide.shtm>, or another website designated by counsel for the Commission.

III.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other assets, or any interest therein, wherever located, including outside the territorial United States, that are:

1. Owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant;
2. In the actual or constructive possession of any Defendant; or
3. In the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under

common control with, any Defendant, including, but not limited to, any assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the territorial United States;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing the Commission prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

C. Cashing any checks or depositing or processing any payments from customers of Defendants;

D. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Defendant; or

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant.

Notwithstanding the asset freeze provisions of Section III.A through E above, and subject to prior written agreement with the Commission, Individual Defendants may, upon compliance with Section VIII (Financial Statements and Accounting) *infra*, pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses.

The funds, property, and assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order. For purposes of this Section and Section IV of this Order, the term “owned” does not extend to de minimis ownership of stock in publicly held corporations.

IV.

DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, or other property held by, or under its control:

1. On behalf of, or for the benefit of, any Defendant or any other party subject to Section III above;

2. In any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Defendant or other party subject to Section III above; and

3. That are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section III above;

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either:

1. Titled in the name, individually or jointly, of any Defendant, or other party subject to Section III above; or

2. Subject to access by any Defendant or other party subject to Section III above;

C. Provide the Commission, within five (5) days of the date of service of this Order, a sworn statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section III above, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;

2. The balance of each such account, or a description of the nature and value of such asset;

3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant or other party subject to Section III above, whether in whole or in part; and

4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date;

D. Within five (5) days of a request from the FTC, provide to the FTC copies of all records or other documents pertaining to each such account or asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

E. This Section shall apply to existing accounts and assets, assets deposited or accounts opened after the effective date of this Order, and any accounts or assets maintained, held or controlled three years prior to the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, any further order of the Court, or by written agreement of the parties.

V.

DUTIES OF THIRD PARTIES TO WITHHOLD DEFENDANTS' MAIL

IT IS FURTHER ORDERED that:

A. Any third party with whom any Defendant maintains an account and/or mail receiving box, including Microdynamics, 1400 Shore Road, Naperville, Illinois 60563, upon being served with a copy of this Order, shall for the duration of this Order, retain and forward to Plaintiff all mail received that is addressed to any Defendant and/or addressed to any other name under which Defendants are doing business, including, but not limited to, "Fair Guide";

B. Defendants, immediately upon entry of this Order, shall take such steps as are necessary to ensure that any third party with whom any Defendant maintains an account and/or mail receiving box located outside the United States, including PO Box 6077, E.M.C. - Building 829 C, 1931 Zaventem - Brucargo, Belgium, shall for the duration of this Order, retain and forward to Plaintiff all mail received from consumers in the United States that is addressed to any Defendant and/or addressed to any other name under which Defendants are doing business, including, but not limited to, "Fair Guide";

C. This mail shall be forwarded to Plaintiff at the following address:

Guy G. Ward
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603

Plaintiff is authorized to open this mail. Plaintiff shall retain the forwarded mail for the duration of this Order, or until further order of the Court, or stipulation of the parties; and

D. Defendants, immediately upon entry of this Order, shall provide to counsel for the Commission a complete list of all locations where any Defendant has received mail from January 1, 2011 through the date of entry of this Order. Defendants shall notify counsel for the Commission of any locations designated to receive mail by any Defendant after the date of entry of this Order, within three (3) business days of such designation. Such notice shall include the name and address of the location, as well as a copy of any agreement or application creating the designation.

VI.

**DUTIES OF THIRD PARTIES PROCESSING
OR TRANSMITTING PAYMENTS FOR DEFENDANTS**

IT IS FURTHER ORDERED that any financial institution, correspondent bank, automated clearing house, network transaction processor, business entity, or person providing any services or assistance in processing or transmitting Defendants' customer payments, including, but not limited to, payments made by credit or debit card, bank account debit, check, and/or wire transfer, and which is served with a copy of this Order, or otherwise has actual knowledge of this Order, is hereby restrained and enjoined from providing any assistance in the processing or transmittal of any payments or wires by consumers to any of the Defendants.

VII.

SUSPENSION OF COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment for Defendants' Internet directory listings.

VIII.

FINANCIAL STATEMENTS AND ACCOUNTING

IT IS FURTHER ORDERED that no later than five (5) business days after entry of this Order, each Defendant shall serve upon counsel for the Commission:

A. A completed financial statement, accurate as of the date of service of this Order and verified under oath, on the form served on Defendants with this Order, for such Defendant individually, and for each corporation or business entity under which such Defendant conducts business, or of which such Defendant is an officer, and for each trust of which such Defendant is a trustee. Said financial statement shall include assets held outside the territory of the United States. Defendants shall attach to their completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules as called for by the instructions to the financial statements;

B. A statement, verified under oath, of all payments, transfers, or assignments of funds, assets, or property worth \$5,000 USD or more since January 1, 2011. Such statements shall include: (a) the amount transferred or assigned; (b) the name of each transferee or assignee; (c) the date of the assignment or transfer; and (d) the type and amount of consideration paid by or to the Defendant. Each statement shall specify the name and address of each financial institution and brokerage firm at which Defendant has accounts or safe deposit boxes. Said statements shall include assets held in foreign as well as domestic accounts; and

C. A detailed accounting, verified under oath, of all gross and net profits obtained from, derived from, or related in any way to the offering for sale or sale of Internet directory listings.

IX.

PRESERVATION OF RECORDS AND REPORT OF NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons or entities in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the incomes, disbursements, transactions, dispositions, and uses of Defendants' assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents, including electronically stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing the Commission with a written statement disclosing: (1) the name of the business entity; (2) the address, telephone

number, e-mail address, and website address of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

X.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons or entities in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, e-mail address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's complaint; and

B. Benefitting from or using the name, address, birth date, telephone number, e-mail address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's complaint;

Provided, however, that Defendants may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

XI.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, partners, divisions, sales entities, successors, assigns, members, officers, directors, employees, independent contractors, agents, servants, attorneys, spouses, representatives, and any other persons in active concert or participation with them. Within five (5) business days following entry of this Order, Defendants shall serve on Plaintiff an affidavit identifying the name, title, addresses, telephone numbers, date of service, and manner of service of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

XII.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, personal or overnight delivery, first class mail, electronic mail, or personally, by agents and employees of the Commission or any state, provincial, federal, or international law enforcement agency, or by private process server, on: (1) Defendants; (2) any financial institution, entity, or person that holds, controls, or maintains custody of any documents or assets of any Defendant, or that held, controlled, or maintained custody of any documents or assets of any Defendant; or (3) any other person or entity that may be subject to any provision of this Order. Service upon any branch or office of any financial institution or entity shall effect service upon the entire financial institution or entity.

XIII.

CONSUMER REPORTING AGENCIES

IT IS FURTHER ORDERED that, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b, any consumer reporting agency may furnish a consumer or credit report concerning any Defendant to the Commission.

XIV.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(A)(iii) and 31(a)(2)(A)(iii), and pursuant to Federal Rules of Civil Procedure 30(a), 31(a), 34, and 45, Plaintiff is granted leave, at any time after service of this Order, to:

A. Take the deposition, on three (3) calendar days' notice (absent timely objection made to the Court), of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the assets of the Defendants, or their affiliates or subsidiaries; the nature and location of documents reflecting the Defendants' business transactions, or the business transactions of the Defendants' affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(A)(ii) and 31(a)(2)(A)(ii) regarding subsequent depositions of a person shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward the ten (10) deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A)(i) and

31(a)(2)(A)(i). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on five (5) calendar days' notice (absent timely objection made to the Court), from any person, whether or not a party, relating to the nature, status, or extent of Defendants' assets, or of their affiliates or subsidiaries; the location of documents reflecting the business transactions of Defendants, or of their affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action, provided that twenty-four (24) hours' notice (absent timely objection made to the Court), shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

XV.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that any correspondence, papers, and pleadings related to this Order shall be served upon Plaintiff by overnight mail, electronic mail, courier delivery, or facsimile to:

Guy G. Ward
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5634 [Telephone]
(312) 960-5600 [Facsimile]
gward@ftc.gov [E-mail]

XVI.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED, this 17th day of April, 2013.

A handwritten signature in black ink, appearing to read "John J. Tharp Jr.", written over a horizontal line.

John J. Tharp Jr.
United States District Judge