

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FEDERAL TRADE COMMISSION and
STATE OF FLORIDA,

Plaintiffs,

v.

7051620 CANADA, INC., also doing
business as NATIONWIDE MARKETING
BUREAU, INC., NATIONAL BUSINESS
ADVERTISING, NATIONAL BIZ ADS,
AND YELLOW BUSINESS ADS, a
Canada corporation,

FRANCOIS EGBERONGBE, individually
and also doing business as NATIONAL
BUSINESS ADVERTISING, NATIONAL
BIZ ADS, and YELLOW BUSINESS ADS,
and as an owner, officer, director, or
manager of 7051620 CANADA, INC., and

ROBERT N. DURHAM, SR., individually
and also doing business as NATIONAL
BUSINESS ADVERTISING, NATIONAL
BIZ ADS, and YELLOW BUSINESS ADS,
and as an owner, officer, director or manager
of 7051620 CANADA, INC.,

Defendants.

Case No.: 1:14-cv-22132-FAM

Judge: Federico A. Moreno

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY
JUDGMENT AS TO DEFENDANTS 7051620 CANADA, INC., FRANCOIS
EGBERONGBE, AND ROBERT N. DURHAM, SR.**

Plaintiffs Federal Trade Commission and State of Florida filed their Complaint For Permanent Injunction And Other Equitable Relief in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and Section 501.204(1) of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. § 501.204(1). Plaintiffs and Defendants 7051620 Canada, Inc., Francois Egberongbe, and Robert N. Durham, Sr., ("Defendants") stipulate to the entry of this *Stipulated Order For Permanent Injunction And*

Monetary Judgment As To Defendants 7051620 Canada, Inc., Francois Egberongbe, and Robert N. Durham, Sr. (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 501.204(1) of the FDUTPA, in connection with the sale of business directory and advertising services.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorneys’ fees.
5. Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

- A. “Defendants” means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.
 1. “Corporate Defendants” means 7051620 Canada, Inc., also doing business as Nationwide Marketing Bureau, and their successors and assigns.
 2. “Individual Defendants” means Robert N. Durham, Sr., individually and doing business as National Business Advertising, National Biz Ads, and Yellow Business Ads, and Francois Egberongbe.

B. "Person" includes any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

C. "Telemarketing" means any plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones, and which involves a phone call, whether or not covered by the Telemarketing Sales Rule.

I. BAN ON TELEMARKETING

IT IS ORDERED THAT Defendants, whether acting directly or indirectly, are permanently restrained and enjoined from Telemarketing, or from assisting others engaged in Telemarketing.

II. BAN ON BUSINESS DIRECTORY AND ADVERTISING SERVICES

IT IS ORDERED THAT Defendants, whether acting directly or indirectly, are permanently restrained and enjoined from advertising, marketing, promoting, or offering for sale, or assisting in the advertising, marketing, promoting, offering for sale, or sale, of business directory and advertising services, including website design, creation, maintenance, and search engine optimization services.

III. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS ORDERED THAT Defendants, Defendants' officers, agents, servants, employees, and attorneys, 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 or offering for sale, or sale of any good or service, are permanently restrained and enjoined from:

A. Misrepresenting, or assisting others in misrepresenting, expressly or by implication:

1. That a consumer has a preexisting relationship with Defendants or any other Person;

2. That a consumer has agreed to purchase a good or service from Defendants or any other Person;
3. That a consumer owes money to Defendants or any other Person;
4. The nature of Defendants' or any other Person's relationship with a consumer;
5. The purpose of any communication with a consumer; or
6. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

IV. PROHIBITION AGAINST FAILING TO DISCLOSE

IT IS ORDERED THAT Defendants, Defendants' officers, agents, servants, employees, and attorneys, 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 or offering for sale, or sale of any good or service by means other than telemarketing, are permanently restrained and enjoined from:

- A. Failing to disclose in a clear and conspicuous manner:
 1. The identity of the seller;
 2. The nature of the goods or services; and
 3. The total cost to purchase, receive, or use the good or service; or
 4. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

V. PROHIBITION AGAINST COLLECTING ACCOUNTS

IT IS ORDERED THAT Defendants, Defendants' officers, agents, servants, employees, attorneys, and assigns, 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:

A. Attempting to collect or collecting payment for any business directory or advertising service, including website design, creation, maintenance, and search engine optimization services, and

B. Selling, assigning, or otherwise transferring any right to collect payment for any business directory or advertising service, including website design, creation, maintenance, and search engine optimization services.

VI. MONETARY JUDGMENT

IT IS ORDERED THAT:

A. Judgment in the amount of one million seven hundred thousand dollars (\$1,700,000) is entered in favor of Plaintiffs against the Individual and Corporate Defendants, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to pay to Plaintiffs one million seven hundred thousand dollars (\$1,700,000). Such payment must be made within sixty (60) days of the entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiffs.

VII. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED THAT:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of Plaintiffs, including in a proceeding to enforce their rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers, Social Security Numbers or Employer Identification Numbers, which Defendants must submit to Plaintiffs, may be used for collecting and reporting any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

E. All monies paid to Plaintiffs pursuant to this Order (“joint monies”) shall be deposited into a fund administered by the Commission or its agents on behalf of both the Commission and the State of Florida. This fund shall be used for equitable relief, including but not limited to, redress to consumers, and any attendant expenses for the administration of any such equitable relief. In the event that the Commission determines that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, Plaintiffs may, in their discretion, apply any remaining money for such other equitable relief (including consumer information remedies) as they determine to be reasonably related to Defendants’ practices alleged in the Complaint.

F. All joint funds not used for the equitable relief described in Paragraph E of this Section (“remaining joint funds”) shall be divided equally between the Commission and the State of Florida, with half to be deposited to the U.S. Treasury as disgorgement and half to be deposited to the State of Florida Department of Legal Affairs Escrow Fund.

G. Defendants have no right to challenge any actions Plaintiffs or their representatives may take pursuant to this Subsection.

VIII. UNCASHED CHECKS

IT IS ORDERED THAT Defendants relinquish dominion and all legal and equitable right, title, and interest in all uncashed checks and other negotiable instruments sent, whether before or after entry of this Order, by consumers in response to Defendants’ sale of business directory and advertising services, including website design, creation, maintenance, and search

engine optimization services. Defendants must destroy all such uncashed checks and other negotiable instruments within thirty (30) days of entry of this Order or, if received after entry of this Order, within seven (7) days of receipt of any such uncashed checks and other negotiable entries.

IX. CUSTOMER INFORMATION

IT IS ORDERED THAT Defendants, Defendants' officers, agents, servants, employees, and attorneys, 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. Failing to provide sufficient customer information to enable Plaintiffs to efficiently administer consumer redress. If a representative of Plaintiffs requests in writing any information related to redress, Defendants must provide it, in the form prescribed by Plaintiffs, within 14 days;

B. 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 marketing or sale of business directory listings or advertising services, including website design, creation, maintenance, and search engine optimization services; and

C. 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 law, regulation, or court order.

X. COOPERATION

IT IS ORDERED THAT Defendants must fully cooperate with representatives of Plaintiffs in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendants must provide truthful and complete information, evidence, and testimony. The Individual Defendants must appear and the Corporate Defendants must cause Defendants' officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a State of Florida or Commission representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as the State of Florida or the Commission representative may designate, without the service of a subpoena.

XI. ORDER ACKNOWLEDGMENTS

IT IS ORDERED THAT Defendants obtain acknowledgments of receipt of this Order:

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

B. For 5 years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, 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 a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XII. COMPLIANCE REPORTING

IT IS ORDERED THAT Defendants make timely submissions to Plaintiffs:

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

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and State of Florida may use to communicate with Defendant; (b) identify all of that Defendants' businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any Defendant (which Individual Defendants must describe if they know or should know due to their involvement) (d) describe in detail whether and how that Defendant is in compliance with each Section of this order, and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission and the State of Florida

2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

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

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that 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 of any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious names, or residence address; or (b) title or role in any business activity, including any business for which he performs services, whether as an employee or otherwise, and any entity in which he has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity;

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

D. Any submission to Plaintiffs 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 Plaintiffs' 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. 7051620 Canada, Inc., X140033. All submissions to the State of Florida Office of the Attorney General must be sent to: Ryann Flack, Assistant Attorney General, Consumer Protection Division, Office of the Attorney General State of Florida, 444 Brickell Avenue, 6th Floor, Miami, FL 33131.

XIII. RECORDKEEPING

IT IS ORDERED THAT Defendants must create certain records for 20 years after entry of this Order, and retain each such record for 5 years. Specifically, Corporate Defendant and each Individual Defendant, for any business that such Defendant, individually or collectively

with any other Defendants, is a majority owner or controls directly or indirectly, 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 Plaintiffs; and
- E. a copy of each unique advertisement or other marketing material.

XIV. COMPLIANCE MONITORING

IT IS ORDERED THAT, for the purpose of monitoring Defendants' compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Plaintiffs, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; and appear for depositions; and produce documents for inspection and copying. The Commission and State of Florida are 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 and State of Florida are authorized to communicate directly with each Defendant. Defendants must permit representatives of Plaintiffs to interview any employee or other person affiliated with them who has agreed to such an interview. The person interviewed may have counsel present.

C. Plaintiffs may use all other lawful means, including posing, through their representatives as consumers, suppliers, or other individuals or entities, to Defendants or any


individual or entity affiliated with Defendants, 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.

D. Upon written request from a representative of the Commission or State of Florida, any consumer reporting agency must furnish consumer reports concerning Individual Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XV. 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 17 day of December, 2014.



Honorable Federico A. Moreno
United States District Court Judge
Southern District of Florida

SO STIPULATED AND AGREED:

FOR PLAINTIFFS:

wep Anna M. Burns
Anna M. Burns (Bar No. A5501982)
Timothy A. Butler (Bar No. A5501934)
S. Spencer Elg (Bar No. A5501983)
Federal Trade Commission
225 Peachtree Street, Suite 1500
Atlanta, GA 30303
Telephone: (404) 656-1350
Fax: (404) 656-1379
Email: aburns@ftc.gov;
tbutler@ftc.gov; selg@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION



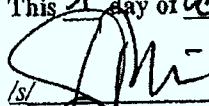
Ryann Flack (Florida Bar No. 0018442)
Assistant Attorney General
Office of the Attorney General
Consumer Protection Division
444 Brickell Avenue
Miami, FL 33131
Telephone: (305) 377-5850
Fax: (305) 349-1403
Email: Ryann.Flack@myfloridalegal.com

Katherine Kiziah (Florida Bar No. 0017585)
South Florida Bureau Chief
Office of the Attorney General
Consumer Protection Division
1515 North Flagler Drive, Suite 900
West Palm Beach, Florida 33405
Telephone: 561-837-5007
Fax: 561-837-5109
Email: Katherine.Kiziah@myfloridalegal.com

Attorney for Plaintiff
STATE OF FLORIDA

FOR DEFENDANTS:

This ^{31st} day of oct, 2014.

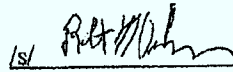


/s/

Anthony A. Strasius
Fla. Bar No. 988715
Anthony.Strasius@wilsonelser.com
Kelly M. Peña
Fla. Bar No. 106575
Kelly.Pena@wilsonelser.com
3800 Miami Tower
100 Southeast Second Street
Miami, Florida 33131
(305) 374-4400 Telephone
(305) 579-0261 Facsimile

COUNSEL FOR ROBERT N. DURHAM, SR.

This 30th day of oct, 2014.



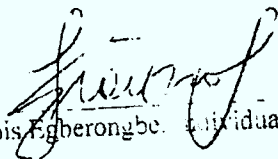
/s/

Robert N. Durham, Sr.

This ____ day of _____, 2014.

/s/

Francois Egberongbe, Individually and as Officer,
Director, and Owner of 7051620, Canada, Inc.

/s/ 
Francois Egberongbe, individually and as Officer, Director, and Owner of 7051620, Canada,
Inc.