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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

4049705 CANADA INC., a corporation, d/b/a
PINACLE,

3782484 CANADA INC., a corporation, d/b/a
M.D.S.C. PUBLISHING, and

TERRENCE CROTEAU, individually and as an
owner, officer, or director of the corporate
defendants,

Defendants.

Civil No. 04 C 4694

Judge Kennelly

Magistrate Judge Mason

Handwritten signature and date

~~PROPOSED~~

Mc 5/19/05

**FINAL JUDGMENT AND
ORDER FOR PERMANENT INJUNCTION**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed its Complaint for Injunctive and Other Equitable Relief ("Complaint") pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"). 15 U.S.C. § 53(b). The Complaint charges Defendants

[REDACTED]

All Defendants were personally served with the Summons and Complaint in this matter on July 21, 2004. Defendants subsequently appeared before the Court through counsel.

Although Defendants filed an answer to the Commission's Complaint on August 30, 2004,



support of the Commission's motion and the entire record in this matter, and now being fully advised in the premises, the Court hereby grants the Commission's motion for a default judgment.

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

FINDINGS

1. This is an action by the Commission instituted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b). The Commission's Complaint seeks permanent injunctive relief against Defendants in connection with the advertising, promotion, offering for sale, sale, and provision of business directories and listings in business directories, and seeks equitable monetary relief in the form of consumer restitution and/or disgorgement. Pursuant to these sections of the FTC Act, the Commission has the authority to seek the relief contained herein.


2. This Court has jurisdiction over the subject matter of this case and has jurisdiction over all parties hereto.

3. Venue is proper as to all parties in the Northern District of Illinois.

4. The Commission's Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).

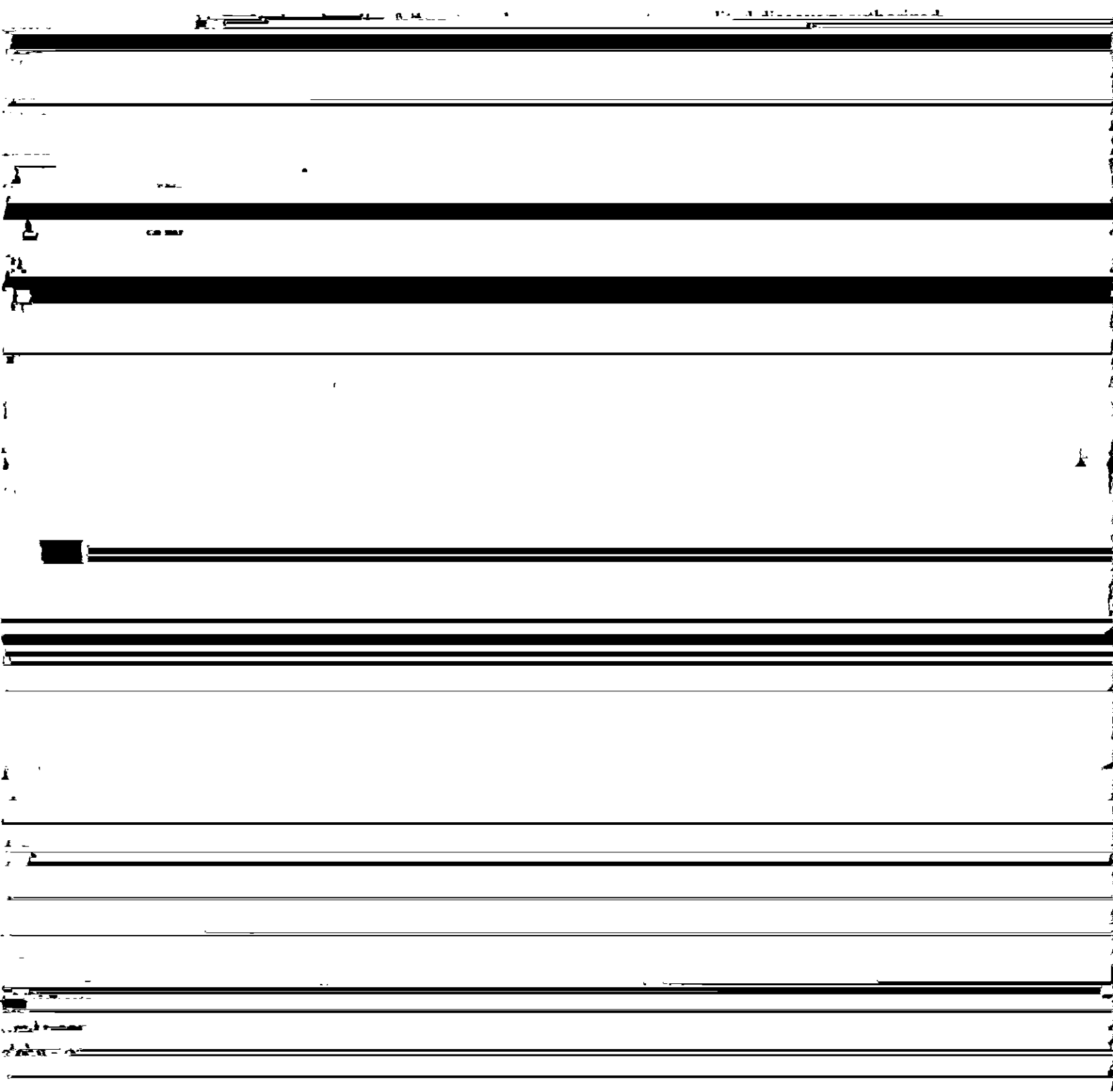
5. The activities of Defendants, as alleged in the Complaint, are in or affecting

commerce as defined in Section 4 of the FTC Act, 15 U.S.C. § 44



6. Defendants were personally served with process in this matter on July 21, 2004, and they thereafter have appeared before the Court through their counsel of record.

7. On January 12, 2005, the Court entered an order of default against all Defendants as a discovery sanction under Fed. R. Civ. P. 37(d). The order of default was justified by Defendants' failure to make any response to the Commission's interrogatories and document



successors and assigns, and upon those persons or entities in active concert or participation with

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. **“Plaintiff”** means the Federal Trade Commission.
2. **“Defendant”** or **“Defendants”** means 4049705 Canada Inc., d/b/a Pinnacle,

3782484 Canada Inc., d/b/a M.D.S.C. Publishing, and Terrence Croteau, individually and as an

usage of the term in Federal Rule of Civil Procedure 34(a) and means:

A. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals,

marketing services of any kind; (e) hiring, recruiting, or training personnel; (f) performing collection activity of any kind; or (g) acting as an officer or director of a business entity.

to, initiating or receiving telephone calls, managing others who initiate or receive telephone calls,

II. PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that Defendants, their successors and assigns, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, promotion, offering for sale, sale, or provision of any good or service, including, but not limited to, business directory listings and business directories, are hereby permanently restrained and enjoined from:

A. Making, or assisting others in making, any express or implied representation or omission of material fact that is false or misleading, in any manner, to any person or entity, including but not limited to, any false or misleading statement:

1. That consumers have a preexisting business relationship with Defendants;
2. That consumers have agreed to purchase a business directory or a listing in such a directory;
3. That Defendants have engaged legal counsel to collect on consumers' accounts;
4. That Defendants will not call or invoice consumers again if consumers will make full or partial payments of amounts allegedly due;
5. That Defendants are telephoning consumers to renew a previous directory listing;
6. That consumers purchased listings in Defendants' business directories that were shipped and/or billed to them by Defendants;

7. Concerning the nature of Defendants' relationship with consumers, and the purpose of their communication with consumers;

8. Of any fact material to a consumer's decision to purchase any good or service;

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

C. Assisting others who violate any provision of Subsection A or B of this Section II.

III. SUSPENSION OF COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Defendants, their successors and assigns, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment for any business directory or listing in a business directory, from any customer of any Defendant.

IV. PROHIBITIONS REGARDING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants, their successors and assigns, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device, or

any of them, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, Social Security

information of any person who paid any money to any Defendant, at any time prior to entry of

this Order for any business directory or listing in a business directory provided, however, that

C. All funds paid pursuant to this Section shall be deposited into a redress fund,

limited to, consumer redress and any attendant expenses for the administration of such equitable

relief. In the event that direct redress to consumers is wholly or partially impracticable or funds

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants 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 normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;

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

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

_____ Defendant's employee

or any other entity managed or controlled in whole or in part by any Defendant, without the

VIII. COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this

Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order,

1. Defendant Terrence Croteau shall notify the Commission of the following:

a. Any changes in residence, mailing addresses, and telephone

numbers of Defendant, within ten (10) days of the date of such change;

b. Any changes in employment status (including self-employment),

and any change in the ownership of any business entity, within ten (10) days of the date of such

change. Such notice shall include the name and address of each business that Defendant

change, provided that, with respect to any proposed change in the corporation about which the Defendant learns less than thirty (30) days prior to the date such action is to take place,

Defendant shall file a written report with the Commission as soon as is practicable after obtaining such knowledge

[REDACTED]

B. One hundred eighty (180) days after the date of entry of this Order, Defendants shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order.

[REDACTED]

Chicago, Illinois 60603

Re: FTC v. 4049705 Canada Inc., et al., No. 04 C 4694

D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendants.

~~RECORD KEEPING PROVISIONS~~

~~IT IS FURTHER ORDERED that [redacted] shall retain [redacted] from the date of entry~~

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by Section X, and all reports submitted to the FTC pursuant to Section VIII.B.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry

~~of this Order, the defendant shall comply with the Order as directed below:~~

personnel, delivery shall be within five (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. Individual Defendant Terrence Croteau as Employee or Non-Control

Person: For any business where Defendant Terrence Croteau is not a controlling owner of a business but otherwise engages in conduct related to the subject matter

of this Order, Defendant Terrence Croteau must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

- D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty days of delivery, from all persons receiving a copy of the Order pursuant to this Part.

XI. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement, in the form shown at **Appendix A**, acknowledging receipt of this Order.

XII. RETENTION OF JURISDICTION

APPENDIX A

FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff

Civil No. 04 C 4604

v.

4049705 CANADA INC., a corporation, d/b/a
PINACLE

Judge Kennelly

Magistrate Judge Moran

3782484 CANADA INC., a corporation, d/b/a
M.D.S.C. PUBLISHING, and

TERRENCE CROTEAU, individually and as an
owner, officer, or director of the corporate
defendants,

3. On _____, I received a copy of the Final Judgment and Order for Permanent

Injunction ("Order") which was signed by the Honorable Matthew F. Kennell and

entered by the Court on _____. A true and correct copy of the Order that I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on _____, at _____.

[City, State]

[Full Name of Defendant]

CERTIFICATE OF SERVICE

I, Todd M. Kossow, an attorney, hereby certify that on this day I caused to be served a true and correct copy of the **Federal Trade Commission's Motion for Entry of Default Judgment Against All Defendants and Declarations and Exhibits in Support of Federal Trade Commission's Motion for Entry of Default Judgment Against All Defendants (Volumes I & II)** on the following via Federal Express Delivery:

THOMAS F PATTERSON
[REDACTED]

SCOTT W. BERENDS
The Patterson Law Firm, P.C.
33 North LaSalle Street, Suite 3350
Chicago, Illinois 60602

Attorneys for All Defendants

Dated: May 13, 2005

Todd M. Kossow
Todd M. Kossow
Attorney for Plaintiff
[REDACTED]

[REDACTED]