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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FEDERAL TRADE COMMISSION,

Plaintiff,

v.

PUBLISHERS BUSINESS SERVICES,  
INC., et al.,

Defendants.

2:08-CV-00620-PMP-PAL

PERMANENT INJUNCTION

Plaintiff Federal Trade Commission (“Commission” or “FTC”) commenced this action on May 14, 2008, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, to secure preliminary and permanent injunctive relief, rescission or reformation of contracts, restitution, 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), and in violation of the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310. Plaintiff filed a motion for summary judgment, or in the alternative, for summary adjudication of issues, on July 31, 2009.



1 or similar activities alleged in the Commission’s Amended Complaint unless permanently  
2 enjoined from such acts and practices.

3 **DEFINITIONS**

4 1. “Amended Complaint” means the “Amended Complaint for Injunctive and Other  
5 Equitable Relief” filed in this case on February 5, 2009.

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1 6. “Defendants” means the Individual Defendants and Corporate Defendants,  
2 individually, collectively, or in any combination, and each of them by whatever names each  
3 might be known.

4 7. “Document” is synonymous in meaning and equal in scope to the usage of the term  
5 in Rule 34(a) of the Federal Rule of Civil Procedure and includes:

6 1. The original and copies of any written, typed, printed, transcribed, taped,  
7 recorded, filmed, or graphic matter or other data compilations of any kind,  
8 whether in hard copy or stored electronically. The term “document” includes but  
9 is not limited to: letters, e-mail and other correspondence, messages, memoranda,  
10 interoffice communications, notes, reports, summaries, manuals, magnetic tapes  
11 or discs, tabulations, books, records, checks, invoices, work papers, journals,  
12 ledgers, statements, returns, reports, schedules, or files; and

13 2. Any information electronically stored on any desktop personal computer or  
14 workstation; laptop, notebook or other portable computer (whether assigned to  
15 individuals or in pools of computers available for shared use); home computers  
16 used for work-related purposes; backup disks and tapes, archive disks and tapes,  
17 and other forms of offline storage, whether stored onsite with the computer used  
18 to generate them, stored offsite in another company facility, or stored offsite by a  
19 third party; and computers and related offline storage used by Defendants’  
20 participating associates, which may include persons who are not employees of the  
21 company or who do not work on company premises.

22 8. “Individual Defendants” means Persis Dantuma, Edward F. Dantuma, Brenda  
23 Dantuma Schang, Dries Dantuma, Dirk Dantuma, and Jeffrey Dantuma, and each of them  
24 by whatever names each might be known.

25 9. “Material” means likely to affect a person’s choice of, or conduct regarding, goods or  
26 services.

1 10. "Person" means any individual, group, unincorporated association, limited or general  
2 partnership, corporation, or other business entity.

3 11. "Preliminary Injunction" means the "Stipulation and Preliminary Injunction,"  
4 entered in this case on June 3, 2008.

5 **ORDER**

6 **I. PROHIBITED MISREPRESENTATIONS**

7 IT IS HEREBY ORDERED that, in connection with the advertising, promotion,  
8 offering, or sale of magazine subscriptions, Defendants, their officers, agents, servants,  
9 employees, and all other persons or entities in active concert or participation with them who  
10 receive actual notice of this Order by personal service or otherwise, are hereby restrained  
11 and enjoined from, directly or indirectly, misrepresenting, expressly or by implication:

12 A. During Defendants' initial marketing contact with any consumer:

- 13 1. Any fact material to the consumer's decision to purchase any magazine  
14 subscription;
- 15 2. That Defendants' purpose in contacting the consumer is to conduct a  
16 survey;
- 17 3. That Defendants will send magazines to the consumer as a free gift;
- 18 4. The weekly, monthly, or other periodic cost at which Defendants will  
19 sell magazines to the consumer;
- 20 5. The total cost that the consumer must pay for a magazine subscription;

21 B. In any of Defendants' communications with any consumer:

- 22 1. Any fact material to the consumer's decision to purchase any magazine  
23 subscription;
- 24 2. That Defendants' purpose in contacting the consumer is to conduct a  
25 survey;
- 26 3. That Defendants will send magazines to the consumer as a free gift;

1 4. The weekly, monthly, or other periodic cost at which Defendants will  
2 sell magazines to the consumer;

3 5. The total cost that the consumer must pay for a magazine subscription;

4 6. That the consumer previously entered into a contract, verbal or  
5 otherwise, with any Defendant to purchase magazine subscriptions, and  
6 therefore is obligated to pay any Defendant for the magazine  
7 subscriptions;

8 7. The total price for magazine subscriptions or the shipping and handling  
9 cost that the consumer previously agreed to pay to Defendants;

10 8. That the consumer has given his or her express informed consent to  
11 purchase magazine subscriptions, and therefore is obligated to pay a  
12 Defendant for the magazine subscriptions; and

13 9. The amount of money that any Defendant has remitted to a magazine  
14 publisher for subscriptions on behalf of the consumer.

15 **II. PROHIBITED BUSINESS PRACTICES**

16 IT IS FURTHER ORDERED that, in connection with the advertising, promotion,  
17 offering, or sale of magazine subscriptions, Defendants, their officers, agents, servants,  
18 employees, and all other persons or entities in active concert or participation with them who  
19 receive actual notice of this Order by personal service or otherwise, are hereby restrained  
20 and enjoined from:

21 A. Failing to clearly and conspicuously disclose, contemporaneous with  
22 Defendants' presentation to any consumer of any terms of an offer to provide  
23 magazine subscriptions:

24 1. All fees, costs, cancellation terms, material refund terms or the fact that  
25 refunds are not provided;

26 2. All material conditions, limitations, restrictions to purchase or the good

1 or service that is the subject of the offer (including any promotion  
2 associated with “free” goods or services); and

3 3. All material terms and conditions of any payment plan, including but  
4 not limited to: the dollar amount of the first payment and when it will be  
5 charged or become due; the dates or frequency (e.g., weekly, monthly,  
6 quarterly) of all subsequent charges or payment(s); the dollar amounts of  
7 each subsequent charge or payment; and the total cost that the consumer  
8 will incur pursuant to the subscription term and the payment plan;

9 B. Directly or indirectly causing billing information to be submitted for payment  
10 unless Defendants first obtain the consumer’s express informed consent to be  
11 charged for the goods or services, which must be evidenced by:

12 1. A written agreement with the consumer that includes all of the  
13 information required to be disclosed pursuant to Subsection A of this  
14 Section, above, and the consumer’s signature acknowledging receipt of  
15 these disclosures; or

16 2. The consumer’s express oral authorization as part of an  
17 audio-recording which:

18 a. Includes the entirety of Defendants’ solicitation and the  
19 consumer’s agreement, including the initial sales pitch and any  
20 follow-up solicitations in which Defendants present any terms of  
21 their offer to provide magazine subscriptions;

22 b. Clearly evidences the consumer’s receipt of both the information  
23 required to be disclosed pursuant to Subsection A of this Section,  
24 above, and the information required to be disclosed pursuant to the  
25 Telemarketing Sales Rule;

26 c. Clearly evidences the consumer’s authorization of payment for

1 the goods or services that are the subject of the solicitation and  
2 agreement;

3 d. Can be identified and located by either the consumer's name or  
4 telephone number; and

5 e. Is made available upon request to the consumer, the consumer's  
6 bank or other billing entity, the Commission, state attorneys  
7 general, and other governmental consumer protection agencies;

8 C. Offering to sell and selling magazine subscriptions to the consumer for a term  
9 which exceeds the maximum subscription term authorized by the publishers for  
10 that magazine; and

11 D. Collecting or attempting to collect money from the consumer for a  
12 subscription term which exceeds the term of the subscription which Defendants  
13 order from the magazine publishers for the consumer.

14 **III. PROHIBITION AGAINST VIOLATING THE TELEMARKETING SALES**  
15 **RULE**

16 IT IS FURTHER ORDERED that Defendants, their officers, agents, servants,  
17 employees, and all other persons or entities in active concert or participation with them who  
18 receive actual notice of this Order by personal service or otherwise, are hereby restrained  
19 and enjoined from directly or indirectly violating, or assisting others to violate, any  
20 provision of the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310, including but not  
21 limited to:

22 A. Section 310.4(d)(2), which prohibits a telemarketer during an outbound  
23 telephone call or internal or external upsell to induce the purchase of goods or  
24 services from failing to disclose truthfully, promptly, and in a clear and  
25 conspicuous manner to the person receiving the call, that the purpose of the call  
26 is to sell goods or services;



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1 or this Order;

2 C. Ascertaining the number and nature of consumer complaints that pertain to  
3 each agent, representative, employee, independent contractor, or contract  
4 employee;

5 D. Promptly and fully investigating, and resolving, any consumer complaint; and

6 E. Taking corrective action, which may include training, disciplining, and/or  
7 terminating any such person whom Defendants determine is not complying with  
8 the FTC Act, the Telemarketing Sales Rule, or this Order;

9 Provided however, that this subsection does not authorize or require Defendants  
10 to take any action that violates any federal, state, or local law.

11 **V. MONITORING COMPLIANCE OF SALES PERSONNEL**

12 IT IS FURTHER ORDERED that Defendants, and their officers, agents,  
13 servants, employees, and those persons in active concert or participation with them who  
14 receive actual notice of this Order by personal service or otherwise, in connection with any  
15 business where any Defendant is the majority owner of the business or directly or indirectly  
16 manages or controls the business, are hereby permanently restrained and enjoined from:

17 A. Failing to take reasonable steps sufficient to monitor and ensure that all  
18 employees, agents, and independent contractors engaged in sales or other  
19 customer service functions comply with Section II, III, and IV of this Order.

20 Such steps shall include adequate monitoring of sales presentations or other calls  
21 with customers, and shall also include, at a minimum, the following:

- 22 1. listening to the oral representations made by persons engaged in sales  
23 or other customer service functions;
- 24 2. establishing a procedure for receiving and responding to consumer  
25 complaints; and
- 26 3. ascertaining the number and nature of consumer complaints regarding

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1 inspection and copying; appear for deposition; and provide entry during normal  
2 business hours to any business location in such Defendant's possession or direct  
3 or indirect control to inspect the business operation;

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

6 1. Obtaining discovery from any person, without further leave of court,  
7 using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45,  
8 and 69;

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

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

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

21 **VIII. COMPLIANCE REPORTING**

22 IT IS FURTHER ORDERED that, in order that compliance with the provisions  
23 of this Order may be monitored:

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

25 1. Each Individual Defendant shall notify the Commission of the  
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- a. Any changes in such Defendant’s residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
- b. Any changes in such Defendant’s employment status (including self-employment), and any change in such Defendant’s ownership in 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 such Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant’s duties and responsibilities in connection with the business or employment; and
- c. Any changes in such Defendant’s name or use of any aliases or fictitious names;

2. Defendants shall notify the Commission of any changes in structure of any Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, provided that, with respect to any proposed change in the business entity about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after

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obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of five (5) years, Defendants each shall provide a written report to the FTC, which is true and accurate and 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. This report shall include, but not be limited to:

1. For each Individual Defendant:

- a. such Defendant's then-current residence address, mailing addresses, and telephone numbers;
- b. such Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that such Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

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1 D. For the purposes of this Order, Defendants shall, unless otherwise directed by  
2 the Commission's authorized representatives, send by overnight courier all  
3 reports and notifications required by this Order to the Commission, to the  
4 following address:

5 Associate Director for Enforcement  
6 Federal Trade Commission  
7 600 Pennsylvania Avenue, N.W., Room NJ-2122  
8 Washington, D.C. 20580  
9 RE: FTC v. Publishers Business Services, Inc., et al.

10 Provided that, in lieu of overnight courier, Defendants may send such reports or  
11 notifications by first-class mail, but only if Defendants contemporaneously send an  
12 electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

13 E. For purposes of the compliance reporting and monitoring required by this  
14 Order, the Commission is authorized to communicate directly with each  
15 Defendant.

#### 16 **IX. RECORD KEEPING PROVISIONS**

17 IT IS FURTHER ORDERED that, for a period of five (5) years from the date of  
18 entry of this Order, in connection with the advertising, promotion, offering, or sale of  
19 magazine subscriptions, Defendants, and their agents, employees, officers, corporations,  
20 and those persons in active concert or participation with them who receive actual notice of  
21 this Order by personal service or otherwise, are hereby restrained and enjoined from failing  
22 to create and retain the following records:

- 23 A. Accounting records that reflect the cost of goods or services sold, revenues  
24 generated, and the disbursement of such revenues;
- 25 B. Personnel records accurately reflecting: the name, address, and telephone  
26 number of each person employed in any capacity by such business, including as  
an independent contractor; that person's job title or position; the date upon which  
the person commenced work; and the date and reason for the person's

1 termination, if applicable;

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

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

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

10 F. All records and documents necessary to demonstrate full compliance with  
11 each provision of this Order, including but not limited to, copies of  
12 acknowledgments of receipt of this Order required by the Sections titled  
13 “Distribution of Order” and “Acknowledgment of Receipt of Order” and all  
14 reports submitted to the FTC pursuant to the Section titled “Compliance  
15 Reporting.”

16 **X. DISTRIBUTION OF ORDER**

17 IT IS FURTHER ORDERED that, for a period of five (5) years from the date of  
18 entry of this Order, Defendants shall deliver copies of the Order as directed below:

19 A. Corporate Defendant: Each Corporate Defendant must deliver a copy of this  
20 Order to (1) all of its principals, officers, directors, and managers; (2) all of its  
21 employees, agents, and representatives who engage in conduct related to the  
22 subject matter of the Order; and (3) any business entity resulting from any change  
23 in structure set forth in Subsection A.2 of the Section titled “Compliance  
24 Reporting.” For current personnel, delivery shall be within five (5) days of  
25 service of this Order upon such Defendant. For new personnel, delivery shall  
26 occur prior to them assuming their responsibilities. For any business entity



1 resulting from any change in structure set forth in Subsection A.2 of the Section  
2 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the  
3 change in structure.

4 B. Individual Defendant as Control Person: For any business that an Individual  
5 Defendant controls, directly or indirectly, or in which such Defendant has a  
6 majority ownership interest, such Defendant must deliver a copy of this Order to  
7 (1) all principals, officers, directors, and managers of that business; (2) all  
8 employees, agents, and representatives of that business who engage in conduct  
9 related to the subject matter of the Order; and (3) any business entity resulting  
10 from any change in structure set forth in Subsection A.2 of the Section titled  
11 "Compliance Reporting." For current personnel, delivery shall be within five (5)  
12 days of service of this Order upon such Defendant. For new personnel, delivery  
13 shall occur prior to them assuming their responsibilities. For any business entity  
14 resulting from any change in structure set forth in Subsection A.2 of the Section  
15 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the  
16 change in structure.

17 C. Individual Defendant as employee or non-control person: For any business  
18 where an Individual Defendant is not a controlling person of a business but  
19 otherwise engages in conduct related to the subject matter of this Order, such  
20 Defendant must deliver a copy of this Order to all principals and managers of  
21 such business before engaging in such conduct.

22 D. Defendants must secure a signed and dated statement acknowledging receipt  
23 of the Order, within thirty (30) days of delivery, from all persons receiving a  
24 copy of the Order pursuant to this Section.

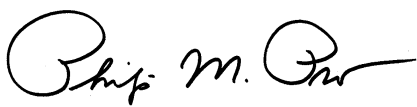
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**XI. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

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

A handwritten signature in black ink, appearing to read "Philip M. Orr". The signature is written in a cursive style with a large initial "P" and a long horizontal stroke at the end.