

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

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil No. 06 C 5378
)	
v.)	Hon. Robert W. Gettleman
)	
1522838 ONTARIO INC., a corporation, d/b/a)	Magistrate Judge Nan R. Nolan
International Industrial Trade Directory, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL
JUDGMENT AS TO DEFENDANTS 1522838 ONTARIO INC. AND GERHARD MINTZ**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction 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 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, Gerhard Mintz, a/k/a Gerry Mintz, William George Fisk, a/k/a Michael Robert Petreikis, a/k/a Michael Kelly, and Emma G. Wanjiku with deceptive acts and practices in connection with the purported sale of business and travel directory listings, business and travel directory advertising, office supplies, and consulting services. The Complaint alleges that Defendants’ deceptive acts and practices violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). On October 20, 2006, the Court entered a Stipulated Preliminary Injunction with Asset Freeze and Other Equitable Relief as to Defendants 1522838 Ontario Inc. and Gerhard Mintz (“Stipulated Preliminary Injunction”).

The Commission and Defendants 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, and Gerhard Mintz, a/k/a Gerry Mintz, having been represented by counsel and

acting by and through such counsel, have now stipulated to the entry of the following Stipulated Order for Permanent Injunction and Final Judgment as to Defendants 1522838 Ontario Inc. and Gerhard Mintz in settlement of the Commission's Complaint against them.

NOW, THEREFORE, the Commission and Defendants 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, and Gerhard Mintz, a/k/a Gerry Mintz, having requested the Court to enter this Stipulated Order, and the Court having considered the Stipulated Order and for other cause appearing, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. The Complaint 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). Pursuant to these sections of the FTC Act, the Commission has the authority to seek the relief contained herein.

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

3. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Northern District of Illinois is proper.

4. The alleged activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. Stipulating Defendants, without admitting the allegations set forth in the Commission's Complaint, agree to entry of this Order.

6. The parties shall each bear their own costs and attorney's fees incurred in this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and

all rights to seek judicial review, or otherwise to challenge the validity of this Order.

7. Entry of this Order is in the public interest.

8. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon Stipulating Defendants, their officers, agents, servants, employees, attorneys, corporations, successors and assigns, and upon those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise.

DEFINITIONS

1. "Plaintiff," "Commission," or "FTC" means the Federal Trade Commission.

2. "Defendant" or "Defendants" means 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, Gerhard Mintz, a/k/a Gerry Mintz, William George Fisk, a/k/a Michael Robert Petreikis, a/k/a Michael Kelly, and Emma G. Wanjiku, and each of them, by whatever names each may be known.

3. "Stipulating Defendants" means 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, and Gerhard Mintz, a/k/a Gerry Mintz, and each of them, by whatever names each may be known.

4. "Asset" or "assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables, funds, monies, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

5. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

6. "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.

7. "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.

8. "Consumer" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

9. "Document" or "record" 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, 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.

10. "Assisting others" means providing any of the following goods or services to any person or entity: (1) preparing, printing, or transmitting invoices; (2) providing for or arranging for the provision of mail or telephone lists that contain, incorporate, or utilize consumers' account numbers; (3) preparing or providing, or causing to be prepared or provided, telephone sales scripts or other materials for use in connection with the promotion of products or services to consumers; (4) providing, mailing, or shipping, or *arranging for the provision, mailing, or shipping*, of fulfillment products or services; (5) providing or arranging for the provision of telemarketing or computer processing services; (6) providing or facilitating the means of obtaining payment from consumers, by opening or maintaining financial accounts or by

providing or facilitating access to the credit card or bank account payment and collection system; (7) performing or providing marketing services of any kind; (8) developing, providing, or arranging for the provision of names of potential customers; (9) providing or arranging for the provision of post office boxes or the services of commercial receiving agencies; (10) recording or verifying sales solicitations; or (11) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints, obtaining or receiving identifying and financial information from consumers, and communicating with consumers on behalf of the seller or telemarketer.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Stipulating Defendants, and their officers, agents directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities 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 trust, 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 and travel directory listings, business and travel directory advertising, office supplies, and consulting services, 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, 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: (1) business directory advertisements or listings, (2) travel directory advertisements or listings; (3) office supplies, or (4) consulting services;
 3. That consumers owe money to Defendants for: (1) business directory advertisements or listings, (2) travel directory advertisements or listings; (3) office supplies, or consulting services;
 4. That consumers purchased: (1) business directory advertisements or listings, (2) travel directory advertisements or listings, (3) office supplies, or (4) consulting services;
 5. Concerning the nature of Defendants' relationship with consumers, and the purpose of their communication with consumers;
 6. Concerning any fact material to a consumer's decision to purchase any good or service; and
- B. Assisting others who violate any provision of Subsection A of this Section.

II. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of the financial statements that Stipulating Defendants submitted to the Commission, namely the financial statement of 1522838 Ontario Inc. executed by Gerhard Mintz on October 18, 2006, and the individual financial statement of Gerhard Mintz executed on November 1, 2006. The Commission's agreement to this Order is expressly

premised upon the financial condition of Stipulating Defendants, as represented in their respective financial statements, which contain material information upon which the Commission relied in negotiating and agreeing upon this Order. If, upon motion of the Commission, the Court finds that the financial statement of either Stipulating Defendant contains any material misrepresentation or omission, the Court shall enter judgment against Stipulating Defendants, jointly and severally, and in favor of the Commission in the amount of Four Million Dollars (USD) (\$4,000,000.00 (USD)) (an estimate of the total amount of consumer injury caused by the activities alleged in the Commission's Complaint between 2002 and 2006), and the entire amount of the judgment shall become immediately due and payable; *provided, however*, that in all other respects, this Order shall remain in full force and effect unless otherwise ordered by the Court; and

B. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Order. For purposes of this Section, Stipulating Defendants waive any right to contest any of the allegations in the Commission's Complaint.

III. DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on Stipulating Defendants' assets imposed by the Stipulated Preliminary Injunction that was entered by the Court on October 20, 2006, shall be lifted upon the entry of this Order by the Court. A financial institution shall be entitled to rely upon a letter from Plaintiff stating that the freeze on Stipulating Defendants' assets has been dissolved.

IV. SUSPENSION OF COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Stipulating Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other 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 trust, 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 on any invoice sent by Defendants prior to the entry of this Order, including Defendants' invoices for: (1) business directory advertisements or listings, (2) travel directory advertisements or listings, (3) office supplies, or (4) consulting services.

V. PROHIBITIONS REGARDING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other 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 trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from using, selling, renting, leasing, transferring, benefiting from or otherwise disclosing the name, address, telephone number, Social Security 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, for any: (1) business directory advertisements or listings, (2) travel directory

advertisements or listings, (3) office supplies, or (4) consulting services; *provided, however*, that Stipulating Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order, and shall disclose such identifying information to the Commission at its request pursuant to this Order.

VI. COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Defendant Gerhard Mintz, both individually and on behalf of Defendant 1522838 Ontario Inc., shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant Mintz shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

VII. COMPLIANCE MONITORING

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

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Stipulating Defendants each 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 Defendants'

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;

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

C. Stipulating Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order.

The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VIII. COMPLIANCE REPORTING BY STIPULATING 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 Gerhard Mintz shall notify the Commission of the following:

a. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in his employment status (including self-employment), and any change in the ownership of Defendant Mintz 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 Defendant Mintz is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Defendant Mintz' duties and responsibilities in connection with the business or employment; and

c. Any changes in Defendant Mintz' name or use of any aliases or fictitious names; and

2. Stipulating Defendants shall notify the Commission of any changes in corporate structure of 1522838 Ontario Inc., d/b/a International Industrial Trade Directory, or any business entity that Defendant Mintz directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which such 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 obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Stipulating

Defendants each 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. This report shall include, but not be limited to:

1. For Gerhard Mintz:

a. The then-current residence address, mailing addresses, and telephone numbers of *Defendant Mintz*;

b. The then-current employment and business addresses and telephone numbers of Defendant Mintz, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant Mintz for each such employer or business; and

c. Any other changes required to be reported under subsection A of this Section.

2. For all Stipulating Defendants:

a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section X; and

b. Any other changes required to be reported under subsection A of this Section.

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

Associate Director for Enforcement
Federal Trade Commission
601 New Jersey Avenue N.W.

Washington, D.C. 20580

Re: *FTC v. 1522838 Ontario Inc., et al.*, No. 06 C 5378 (N.D. Ill.)

D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is directed to communicate with Stipulating Defendants through their attorney Brian D. Fagel, Goldberg Kohn, 55 East Monroe Street, Suite 3700, Chicago, Illinois 60603.

IX. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, in connection with any business in which: (1) a Stipulating Defendant is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business involves the promotion, offering for sale, or sale of any product or service to U.S. consumers, Stipulating Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

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

B. Personnel records accurately reflecting: the name, address, and telephone 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 termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to

the extent such information is obtained in the ordinary course of business;

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

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.

X. DISTRIBUTION OF ORDER BY STIPULATING DEFENDANTS

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

A. **Corporate Defendant:** 1522838 Ontario Inc. must deliver a copy of this Order to all of its principals, officers, directors, and managers. Such Defendant also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current 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.

B. **Individual Defendant Gerhard Mintz as Control Person:** For any business that Gerhard Mintz controls, directly or indirectly, or in which such Defendant has a majority ownership interest, Defendant Mintz must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant Mintz must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to

the subject matter of the Order. For current 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 Gerhard Mintz as Employee or Non-Control Person:

For any business where Gerhard Mintz is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Defendant Mintz must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct; and

D. Stipulating 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 Section.

XI. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Stipulating 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. SEVERABILITY

IT IS FURTHER ORDERED that the provisions of this Order are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

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XIII. RETENTION OF JURISDICTION

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

The Commission and Stipulating Defendants hereby stipulate and agree to entry of the foregoing Stipulated Order, which shall constitute a final judgment in this action.

IT IS SO ORDERED, this ____ day of _____, 2007

Hon. Robert W. Gettleman
United States District Judge

SIGNED AND STIPULATED BY:

Dated: March 20, 2007

Todd M. Kossow
TODD M. KOSSOW
THERESA M. MCGREW
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
(312) 960-5634 [Telephone]
(312) 960-5600 [Facsimile]
Attorneys for Plaintiff
Federal Trade Commission

Dated: March 2, 2007


G. Mintz
1522838 ONTARIO INC.
By Gerhard Mintz, Owner and Director

Dated: March 2, 2007

G. Mintz
GERHARD MINTZ, individually

Approved as to Form:

Dated: 3/14/07



BRIAN D. FAGEL
Goldberg Kohn
55 East Monroe Street, Suite 3700
Chicago, Illinois 60603
(312) 201-3999 [Telephone]
(312) 863-7499 [Facsimile]
Attorney for Defendants
1522838 Ontario Inc. and Gerhard Mintz

APPENDIX A

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

_____)	
FEDERAL TRADE COMMISSION,)	
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Plaintiff,)	Civil No. 06 C 5378
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v.)	Hon. Robert W. Gettleman
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1522838 ONTARIO INC., a corporation, d/b/a)	Magistrate Judge Nan R. Nolan
International Industrial Trade Directory, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

[Name of Defendant], being duly sworn, hereby states and affirms as follows:

1. My name is _____. My current residence address is _____
_____. I am a citizen of _____ and am
over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a defendant in *FTC v. 1522838 Ontario Inc., et al.* (United States District Court for the Northern District of Illinois).

3. On [date], I received a copy of the Stipulated Order for Permanent Injunction and Final Judgment as to Defendants *1522838 Ontario Inc. and Gerhard Mintz*, which was signed by the Honorable Robert W. Gettleman, and entered by the Court on [date of entry of Order]. A true and correct copy of the Order 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 [date], at [city and state].

[Full name of Defendant]

Province of _____, City of _____

Subscribed and sworn to before me
this ____ day of _____, 20__.

Notary Public
My Commission Expires:
