

THE COMPETITION TRIBUNAL

IN THE MATTER OF THE *COMPETITION ACT*, R.S., 1985, c. C-34, as amended;

AND IN THE MATTER OF an inquiry pursuant to subsection 10(1)(b)(ii) of the *Competition Act* relating to the marketing practices of Universal Payphone Systems Inc.;

AND IN THE MATTER OF an Application by the Commissioner of Competition for a consent order pursuant to section 74.12 of the *Competition Act*.

B E T W E E N:

THE COMMISSIONER OF COMPETITION

Applicant

-and-

**UNIVERSAL PAYPHONE SYSTEMS INC.
and GEORGE KATSOULAKIS, a.k.a. GEORGE KATS**

Respondents

CONSENT ORDER

FURTHER TO the application of the Commissioner of Competition pursuant to section 74.1 of the *Competition Act*, R. S. C. 1985, c. C-34 for an order that the Respondents cease from making certain false and misleading representations;

UPON the applicant's notice of application dated November 25, 1999;

UPON the consent of the Commissioner of Competition and the Respondents, for the registration of an order pursuant to section 74.12 of the *Competition Act*;

WHEREAS Universal Payphone Systems Inc. and George Katsoulakis, also known as George Kats, (the Respondents) were engaged in the promotion of a pay telephone business opportunity through newspaper, radio, television, and Internet advertisements, as well as through the distribution of other promotional materials;

WHEREAS the Competition Tribunal, on an application for an interim order, made a finding that Universal Payphone Systems Inc. (Universal) made certain representations in the promotion of its pay telephone business that were false or misleading in a material respect; and for greater particularity, found that:

1. Universal made representations to the public about the length of time that they had carried on business, which representations were false and misleading in a material respect;
2. Universal made representations to the public with respect to the premises from which they carried on business, which representations were false and misleading in a material respect;
3. Universal made representations to the public that they were members of credible consumer protection agencies, which representations were false and misleading in a material respect;

4. Universal made representations to the public with respect to the potential profitability of the business opportunity being marketed by the Respondents, which representations were false and misleading in a material respect;
5. Universal made representations to the public with respect to the model of pay telephone that they were offering for sale, which representations were false and misleading in a material respect;
6. Universal made representations to the public which gave the general impression that the payphone business marketed by the Respondents would generate an immediate and continuous cash flow for persons who invest in that opportunity and would require persons who decide to invest in that opportunity to do little or no preparatory or preliminary work in order to commence the operation of their business and begin generating revenue from that business, which representations were false and misleading in a material respect;

AND WHEREAS the Respondents published testimonials with respect to their payphone business opportunity where such testimonials had not been previously made and where such testimonials were not based on actual experiences of investors;

AND WHEREAS the Respondents made representations to the public which gave the general impression that they had developed expertise in the payphone industry through research and experience;

AND WHEREAS the Respondents made representations to the public that they would provide valuable locations for investor's payphones;

AND WHEREAS the Respondents made representations to the public with respect to the period of time within which they would get investor's businesses up and running;

AND WHEREAS the Respondents made representations to the public that they provided a guaranteed return on investment;

THE PARTIES HEREBY CONSENT TO THE REGISTRATION WITH THE COMPETITION TRIBUNAL OF AN ORDER THAT :

1. The Respondents and anyone on their behalf or for their benefit, including, all directors, officers, employees, agents or assigns of the Respondents or either of them (hereinafter collectively referred to as "the Respondents"), shall cease from making, causing to be made, or permitting to be made any representations whatsoever in Canada or available to Canadians by any means whatsoever, including the Internet, for the purpose of promoting or marketing, either directly or indirectly, the aforementioned payphone business opportunity or any similar opportunity.
2. The Respondents shall not in the promotion of any type of business opportunity, make any false or misleading representations to the public about the Respondents as a business, including, without limiting the generality of the foregoing:

- a. that the Respondents have developed expertise in a particular business when it is not the case;
 - b. that create the general impression that the Respondents have been in any business for longer than is actually the case;
 - c. that create the general impression that the Respondents carry on business from premises other than those from which the Respondents actually carry on business;
3. The Respondents shall not in the promotion of any type of business opportunity, make any false or misleading representations to the public relating to the proposed business, including, without limiting the generality of the foregoing:
- a. that create the general impression that the Respondents are members of any agency or bureau that is not a fully independent and arms-length consumer protection agency, with documented procedures and dispute handling mechanisms;
 - b. that create a general impression that the product offered by the Respondents in the context of the business opportunity is different than that which the Respondents will actually supply;
 - c. that create a general impression that the Respondents will do all or substantially all of the work required or provide all the necessary start-up procedures to get investors' business up and running, unless the Respondents adequately and fairly disclose to potential investors in writing, before investors have committed to a course of

action, all of the steps required or reasonably required to be undertaken by the investor as well as any additional expenses which might reasonably be incurred by investors in order to make their business operational;

- d. that create a general impression that the Respondents will provide prime revenue-generating locations and that such locations will be satisfactory to investors;
 - e. that concern the financial security, profitability, potential profitability, or revenue generating ability of any business opportunity marketed by the Respondents, unless that information is based on truthful, accurate, relevant and verifiable data which shall be provided to the Applicant upon written request;
 - f. that create the general impression that the Respondents will get an investor's business up and running within a reasonable period of time and will provide ongoing support to investors once the investor's business is up and running, unless the Respondents also provide in writing to potential investors, the average time between the date of purchase by investors and the date that the product is installed and fully operational;
4. The Respondents shall not make representations to the public that purport to guarantee investors a return on their investment, where there is no likelihood that the Respondents will carry out the guarantees, and the Respondents, upon the Applicant's written request, shall provide data or other information which demonstrate the Respondents' ability to honour any such guarantees.

5. The Respondents shall not publish testimonials where those testimonials were not previously made or published, and where such testimonials are not based on the actual experience of investors.

6. This order shall be applicable for a period of 10 years from the date of this order.

7. The parties hereby understand and agree that this order shall be enforceable as if it had been made by the Competition Tribunal, as set out in s. 74.12(2) of the *Competition Act*.

DATED this _____ day of _____, 2000

Johanne D'Auray
Deputy Commissioner

DATED this _____ day of _____, 2000

George Katsoulakis

Witness

George Katsoulakis, for
Universal Payphones Systems

Witness