

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

**CLOSED  
CIVIL  
CASE**

Case No. 05-60129-Civ (Cohn/Snow)

**FEDERAL TRADE COMMISSION,**

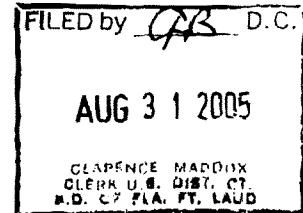
Plaintiff,

v.

**SERVICE BROKERS ASSOCIATES, INC., and**

**DANIEL GONZALEZ,**

Defendants.



**STIPULATED FINAL JUDGMENT AND ORDER OF PERMANENT INJUNCTION**

Plaintiff, the Federal Trade Commission ("Commission"), commenced this action by filing its Complaint pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, charging the defendants with deceptive acts and practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the Credit Repair Organizations Act, 15 U.S.C. § 1679 *et seq.*

Plaintiff, through its counsel, and defendants, through their counsel, have agreed to entry of this Final Judgment and Order by this Court in order to resolve all matters in dispute in this action. The Commission and the defendants have consented to entry of this Final Judgment and Order without trial or adjudication of any issue of law or fact herein and without the defendants

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admitting liability for any of the violations alleged in the Complaint or for any wrongdoing whatsoever.

Being fully advised in the premises and acting upon the joint motion of the parties, the Commission and the defendants, to enter this Final Judgment and Order,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

#### **FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and all parties thereto;
2. The Complaint states a claim upon which relief may be granted against the defendants under Sections 5, 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b) and 57b, and the Credit Repair Organizations Act, 15 U.S.C. § 1679 *et seq.*;
3. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b);
4. The activities of the defendants are in or affecting commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
5. Entry of this Final Judgment and Order is in the public interest; and
6. Defendants 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 challenge the validity of this Final Judgment and Order.

#### **DEFINITIONS**

For the purpose of this Stipulated Final Judgment and Order, the following definitions shall apply:

1. “*Asset*” means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” “notes” (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located.

2. “*Credit repair organization*” means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of (a) improving any consumer’s credit record, credit history, or credit rating; or (b) providing advice or assistance to any consumer with regard to any activity or service described in clause (a). It does not include (a) any nonprofit organization which is exempt from taxation under Section 501(c)(3) of Title 26; (b) any creditor (as defined in Section 1602 of Title 15), with respect to any consumer, to the extent the creditor is assisting the consumer to restructure any debt owed by the consumer to the creditor; or (c) any depository institution (as that term is defined in Section 1813 of Title 12) or any Federal or State credit union (as those terms are defined in Section 1752 of Title 12), or any affiliate or subsidiary of such a depository institution or credit union.

3. “*Credit repair service*” means any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of (a) improving any consumer’s credit record, credit history, or credit rating; or (b) providing advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve any

consumer's credit record, credit history, or credit rating.

4. "**Document**" 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 the 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.

## **ORDER**

### **I. CREDIT REPAIR ORGANIZATIONS ACT**

**IT IS ORDERED** that defendants Service Brokers Associates, Inc. and Daniel Gonzalez, their officers, agents, servants, employees, attorneys, and all 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 business entity, corporation, subsidiary, division, affiliate or other device, are hereby permanently restrained and enjoined from violating any provision of the Credit Repair Organizations Act, ("CROA"), 15 U.S.C. § 1679 *et seq.*, as presently enacted or as it may hereinafter be amended, including, but not limited to:

**A.** Violating 15 U.S.C. § 1679b(b) by charging or receiving any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed;

**B.** Violating 15 U.S.C. § 1679c(a) by failing to provide consumers with a written statement of consumer credit file rights under state and federal law at the time and in the manner prescribed therein; and

C. Violating 15 U.S.C. §§ 1679d(a), 1679d(b)(4), or 1679e(b), by providing services to consumers without first having the consumers sign written contracts that:

- (1) include a prescribed statement of the consumer's right to cancel the transaction within three business days; and
- (2) are accompanied by a notice of cancellation in the form and manner prescribed.

## II. INJUNCTION AGAINST PROVIDING CUSTOMER LISTS

**IT IS FURTHER ORDERED** that defendants Service Brokers Associates, Inc. and Daniel Gonzalez are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, Social Security number, or other identifying information of any person who purchased services from defendants at any time prior to the date this Final Judgment and Order is entered. *Provided*, however, that defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

## III. MONETARY JUDGMENT

**IT IS FURTHER ORDERED** that judgment in the amount of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00) is entered against defendants Service Brokers Associates, Inc. and Daniel Gonzalez; *provided*, however, that this judgment shall be suspended until further order of the Court, and *provided further* that this judgment shall be subject to the conditions set forth in Paragraph IV of this Final Judgment and Order.

#### IV. FINANCIAL STATEMENTS

A. **IT IS FURTHER ORDERED** that the Commission's agreement to and the Court's approval of this Final Judgment and Order are expressly premised upon the truthfulness, accuracy, and completeness of the financial statements and information provided to the Commission by defendants Service Brokers Associates, Inc. and Daniel Gonzalez on or about December 13, 2003, February 24, 2005, and March 22, 2005, which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Final Judgment and Order.

B. **IT IS FURTHER ORDERED** that if the Commission should have evidence that the above-referenced financial statements and information failed to disclose any material asset the value of which exceeds \$1,000, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, the Commission may move that the Court reopen this Final Judgment and Order for the sole purpose of allowing the Commission to modify the monetary liability of defendants Service Brokers Associates, Inc. and Daniel Gonzalez. If the Court finds that either defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in the above-referenced financial statements and information, the Court shall reinstate the suspended judgment against such defendant, in favor of the Commission, in the amount of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00), which the defendants and the Commission stipulate is the amount of consumer injury caused by the defendants, as set forth in Paragraph III of this Final Judgment and Order. *Provided, however, that in all other respects this Final Judgment and Order shall remain in full force and effect unless otherwise ordered by the*

Court. Any proceedings instituted under this Paragraph shall be in addition to and not in lieu of any other proceedings the Commission may initiate to enforce this Final Judgment and Order. Solely for the purposes of reopening or enforcing this Paragraph, defendants Service Brokers Associates, Inc. and Daniel Gonzalez waive any right to contest any of the allegations set forth in the Complaint filed in this matter.

## **V. 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, defendants Service Brokers Associates, Inc. and Daniel Gonzalez 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 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;
2. Posing as consumers and suppliers to: Defendants Service Brokers Associates, Inc. and Daniel Gonzalez, defendants Service Brokers Associates, Inc. and Daniel Gonzalez's employees, or any other entity managed or controlled in whole or in

part by defendants Service Brokers Associates, Inc. and Daniel Gonzalez, without the necessity of identification or prior notice; and

C. Defendants Service Brokers Associates, Inc. and Daniel Gonzalez 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 and 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)).

## VI. 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 Daniel Gonzalez shall notify the Commission of the following:
    - a. Any changes in defendant's residence, mailing addresses, and telephone numbers, within thirty (30) days of the date of such change;
    - b. Any changes in employment status (including self-employment) of defendant, and any change in the ownership of defendant in any business entity, within thirty (30) days of the date of such change. Such notice shall



include the name and address of each business that defendant is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of defendant's duties and responsibilities in connection with the business or employment; and

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

2. Defendants Service Brokers Associates, Inc. and Daniel Gonzalez shall notify the Commission of any changes in the corporate structure of defendant Service Brokers Associates, Inc. or any business entity that defendant Daniel Gonzalez directly or indirectly controls, 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 the defendants learn less than thirty (30) days prior to the date such action is to take place, defendants shall notify the Commission as soon as is practicable after obtaining such knowledge.

**B.** Within one hundred eighty (180) days after the date of entry of this Order, defendants Service Brokers Associates, Inc. and Daniel Gonzalez each shall provide a written report to the FTC, 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 defendant Daniel Gonzalez:
  - a. The then-current residence address, mailing addresses, and telephone numbers of defendant;
  - b. The then-current employment and business addresses and telephone numbers of defendant, a description of the business activities of each such employer or business, and the title and responsibilities of defendant, for each such employer or business; and
  - c. Any other changes required to be reported under Subparagraph A of this Paragraph.
2. For defendants Service Brokers Associates, Inc. and Daniel Gonzalez:
  - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph VIII of this Order; and
  - b. Any other changes required to be reported under Subparagraph A of this Paragraph.

C. For the purposes of this Order, defendants shall, unless otherwise directed by the

Commission's authorized representatives, mail all written notifications to the Commission to:

Regional Director  
Federal Trade Commission  
Southwest Region  
1999 Bryan Street, Suite 2150  
Dallas, TX 75201

Re: FTC v. Service Brokers Associates, Inc., et al., Civil Action No. 05-60129.

**D.** For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with defendants Service Brokers Associates, Inc. and Daniel Gonzalez.

## **VII. RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Final Judgment and Order, defendants Service Brokers Associates, Inc. and Daniel Gonzalez, their officers, agents, servants, employees, attorneys, and all 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 business entity, corporation, subsidiary, division, affiliate or other device, in connection with any business where either defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business involves the advertising, promotion, offering for sale, or sale of credit repair services, 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;

**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 Paragraph VIII of this Order, and all reports submitted to the FTC pursuant to Paragraph VI of this Order.

#### **VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, defendants Service Brokers Associates, Inc. and Daniel Gonzalez shall deliver copies of the Order as directed below:

**A. Defendant Service Brokers Associates, Inc.:** Defendant Service Brokers Associates, Inc. must deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant Service Brokers Associates, Inc. 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 (5) days of service of this Order upon defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.

**B. Defendant Daniel Gonzalez as Control Person:** For any business that defendant Daniel Gonzalez controls, directly or indirectly, or in which defendant Daniel Gonzalez has a majority ownership interest, defendant Daniel Gonzalez must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant Daniel Gonzalez 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 (5) days of service of this Order upon defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.

**C. Defendant Daniel Gonzalez as employee or non-control person:** For any business where defendant Daniel Gonzalez is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, defendant Daniel Gonzalez must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

**D.** Defendants Service Brokers Associates, Inc. and Daniel Gonzalez 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 Paragraph.

#### **IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that each defendant, within ten (10) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

**X. ATTORNEYS' FEES**

**IT IS FURTHER ORDERED** that each party to this Final Judgment and Order hereby agrees to bear its own costs and attorneys' fees incurred in connection with this action.

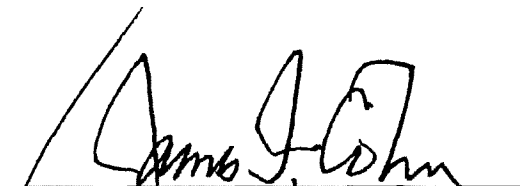
*ALL PENDING MOTIONS ARE DENIED AS MOOT.  
THE CLERK SHALL CLOSE THIS CASE.*

**XI. 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.

**SO ORDERED:**

DATED: August 31, 2005

  
\_\_\_\_\_  
**JAMES I. COHN**  
**UNITED STATES DISTRICT JUDGE**

**SO STIPULATED:**

**FOR THE FEDERAL TRADE  
COMMISSION:**

**WILLIAM BLUMENTHAL**  
General Counsel

**BRADLEY M. ELBEIN**  
Regional Director



**SUSAN E. ARTHUR**

Texas Bar No. 01365300

**ELISEO N. PADILLA**

Florida State Bar No. 0192929

Federal Trade Commission

1999 Bryan St., Suite 2150

Dallas, TX 75201

(214) 979-9383 (Arthur)

(214) 979-9382 (Padilla)

(214) 953-3079 (facsimile)

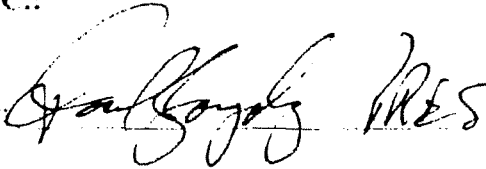
Attorneys for Plaintiff

**FEDERAL TRADE COMMISSION**

**FOR THE DEFENDANTS:**

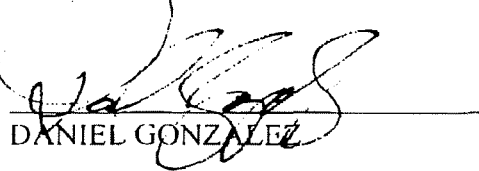
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INC.:**

By



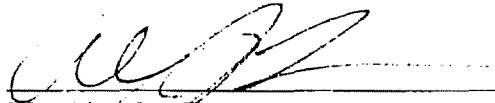
Service Brokers Associates, Inc..

**FOR DANIEL GONZALEZ:**



DANIEL GONZALEZ

**COUNSEL FOR DEFENDANTS:**



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Florida Bar No. 160734

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