

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

November 4, 2013

IN RE:

SHOW CAUSE PROCEEDING AGAINST DIRECT
OPEN BUSINESS, LTD., FOR ALLEGED
VIOLATIONS OF TENN. CODE ANN. §§ 65-4-501,
et. seq.

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)
) DOCKET NO.
) 13-00095
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**ORDER REQUIRING OPEN BUSINESS DIRECTORY, LTD.,
TO APPEAR AND SHOW CAUSE WHY THE TRA SHOULD NOT
ISSUE A CEASE AND DESIST ORDER, IMPOSE CIVIL PENALTIES, AND SEEK
ADDITIONAL RELIEF AGAINST IT FOR VIOLATIONS OF
TENN. CODE ANN §§ 65-4-501, ET. SEQ.**

This matter is before the Hearing Officer upon the Order of the Tennessee Regulatory Authority ("TRA" or "Authority") to determine whether an Order for Show Cause should be issued against Open Business Directory, Ltd. ("Open Business"), and if so, to prepare the matter for hearing before the panel. The Consumer Services Division of the Authority ("CSD") has presented a *Petition* and the *Affidavit of Slayde Warren*, alleging that Open Business has violated Tenn. Code Ann. §§ 65-4-501, *et. seq.* Based thereon, the Hearing Officer determines that an Order should be issued, and contested case proceeding convened, requiring Open Business to appear before the Authority and show cause why the TRA should not issue a cease and desist order, impose civil penalties and sanctions, and seek appropriate additional relief for violations of State law.

JURISDICTION

The Authority is specifically authorized and charged, to ensure that the laws of this State as they relate to the Authority's jurisdiction "are enforced and obeyed, that violations thereof are

promptly prosecuted, and all penalties due the State are collected.”¹ The Authority is empowered to hear this matter and render an Order pursuant to the powers delegated by the Tennessee General Assembly, including those provided in Tenn. Code Ann. §§ 65-2-106, 65-3-105, 65-4-116, and 65-4-504.

RELEVANT FACTS

1. Open Business transmits/sends, or causes to be transmitted/sent, unsolicited facsimile advertisements to Tennessee consumers.²
2. Between February 7, 2011 and May 7, 2013, the CSD received complaints from five (5) Tennesseans or Tennessee entities that had received from Open Business, which had sent or caused to be sent, at least twelve (12) unsolicited facsimile advertisements soliciting the purchase of goods and/or services.³
3. CSD’s investigation determined that these Tennesseans or Tennessee entities had no pre-existing business relationship with Open Business.⁴

ALLEGED VIOLATIONS OF STATE LAW

The following actions, alleged to have been performed by Open Business, constitute violations of state law:

- A. On at least twelve (12) separate occasions Open Business sent or caused to be sent unsolicited facsimile advertisements to at least five (5) Tennesseans or Tennessee entities.

COUNT 1:

Open Business’ actions of sending or causing to be sent an unsolicited facsimile

¹ Tenn. Code Ann. § 65-1-113 (2004).

² *Affidavit of Slayde Warren*, ¶ 7 (October 18, 2013).

³ *Id.*

⁴ *Id.*, at ¶ 8.

advertisement violates Tenn. Code Ann. § 65-4-502(a) (2013), which states:

No person shall transmit or cause another person to transmit an unsolicited facsimile advertisement. . .

UPON THE FOREGOING INFORMATION AND ATTACHMENTS, as presented by the CSD, the Hearing Officer acting pursuant to the scope of the TRA's regulatory authority granted under Tenn. Code Ann. §§ 65-1-113, 65-2-106, 65-3-105, 65-4-116, and 65-4-502, hereby determines that Open Business should be required to appear and show cause why it should not be found in violation of State law and, upon such finding, the Authority should not immediately issue a cease and desist order, impose civil penalties and sanctions, and seek additional relief to the maximum extent allowed by law.

BE IT THEREFORE ORDERED THAT:

Open Business Directory, Ltd., shall appear before the Tennessee Regulatory Authority for a hearing at **1:00 p.m. CST on January 13, 2014**, in the Hearing Room on the ground floor of the Andrew Jackson State Office Building located at 500 Deaderick Street, Nashville, Tennessee 37242, and shall show cause why the Authority should not proceed to take action against Open Business Directory, Ltd., for the unlawful actions and omissions alleged against it in this Order, including, but not limited to, the issuance of a cease and desist order and the imposition of civil penalties and sanctions.


Kelly Cashman-Grams, Hearing Officer