

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
JOHN SCHERILLO,

Plaintiff,

-against-

DUN & BRADSTREET, INC.,

Defendant.
-----X

RECEIVED
VERIFIED
COMPLAINT
MAR 09 2009
Index No. NASSAU COUNTY
COUNTY CLERK'S OFFICE

Plaintiff, JOHN SCHERILLO, by his attorneys, the Law Offices of Eliot F. Bloom, P.C.,
complaining of Defendant, DUN & BRADSTREET, INC., alleges the following:

1. Plaintiff is a resident of the State of New York, and resides at 7 Pumpkin Street,
East Northport, New York, 11731.

2. Defendant, DUN & BRADSTREET, INC. ("D&B"), is a duly licensed
corporation incorporated under and by virtue of the laws of the State of Delaware, doing business
in the State of New York, and maintains an office at 111 Eighth Avenue, New York, New York
10011.

3. Defendant, DUN & BRADSTREET, INC. ("D&B"), is a duly licensed
corporation incorporated under and by virtue of the laws of the State of Delaware, doing business
in the State of New York, and transacts business in the County of Nassau.

4. On or about July 7, 2008, Plaintiff invested Fifty Thousand Dollars and 00/000
(\$50,000.00) in Agape World, Inc. ("Agape"), with offices located at 150 Motor Parkway, Suite
106, Hauppauge, New York 11788. Thereafter, in September 2008, Plaintiff, in evaluating his
outstanding Agape investments, general future investment opportunities, and recommendation of
Agape to other prospective investors, reconsidered his existing investments with Agape. In so

doing, Plaintiff sought to procure from an independent resource an analysis of the strength and security of Agape as a financial entity.

5. Defendant D&B holds itself out to the public as having a unique and specialized expertise in this field, as it states that it: 1) is the world's leading source of commercial information and insight on businesses; 2) maintains a commercial database of more than 140,000,000 business records; and 3) employs proprietary quality assurance technology that enhances and guarantees quality business information. Plaintiff relied on these representations in seeking out the specialized information required to make a prudent, knowledgeable and informed investment decision.

6. Plaintiff utilized Defendant D&B's database subscription service, which, *inter alia*, provided an in-depth business summary and risk analysis of companies selected by each individual subscriber. Plaintiff requested a summary and analysis of Agape. The most pertinent feature of this service for purposes of the within Verified Complaint is a financial report entitled "D&B Comprehensive Plus Report: AGAPE WORLD INC." (hereinafter "Plus Report"). The Plus Report expressly states that it was "provided under contract for the exclusive use of subscriber John Scherillo," Plaintiff herein. Said report is annexed hereto and it is incorporated by reference to this Verified Complaint.

7. Among other information provided on the Plus Report were several D&B rating predictions as to Agape's future performance, which were situated on a scale from 1 to 5, with 1 representing a "Low", 3 representing a "Moderate", and 5 representing a "High" likelihood of a specific event or condition occurring. D&B rated Agape's performance especially high, as Agape received a "2" when considering the "[l]ikelihood [Agape] will not pay on time over the next 12 months" and a 1—the lowest risk factor—in regard to the "[l]ikelihood [Agape] will

experience financial distress in the next 12 months.” To reiterate, D&B’s report and analysis for Plaintiff was conducted on September 16, 2008, less than four months before it was revealed that Agape operated as a fraudulent “Ponzi” investment scheme and in reality was insolvent.

8. Plaintiff’s Plus Report stated “D&B offers guidance on credit limits for [Agape] based on its profile as well as profiles of other companies similar in size, industry, and credit usage.” The Plus Report then proceeded to conclude “NO” as to whether there was “[e]vidence of bankruptcy, fraud, or criminal proceedings in the history of this business or its management.” These factors apparently led D&B to rate Agape’s “[t]imeliness of historical payments” as “Prompt.”

9. As the D&B Plus Report expressly states, its ratings were in part a result of comparing Agape to companies similar in size, industry, and credit usage. Accordingly, Plaintiff relied on the information provided in and conclusions drawn from the Plus Report to both evaluate Agape’s individual strength, as well as its financial posture in relation to similar companies with whom Plaintiff may have otherwise invested. Plaintiff did so because he hoped to maximize his investment return while taking as little risk as possible. As a direct result of the information contained in D&B’s Plus Report, and Plaintiff’s reliance thereon, Plaintiff decided on or about September 22, 2008, approximately six days after receiving the Plus Report, to 1) maintain the Fifty Thousand Dollars and 00/000 (\$50,000.00) in investment funds already on deposit with Agape, and 2) invest an additional Twenty Five Thousand Dollars and 00/000 (\$25,000.00) with Agape.

10. That D&B failed to act reasonably under the circumstances, thereby breaching its duty to Plaintiff, by failing to provide accurate, correct, reliable, and up-to-date information on Agape to Plaintiff; by failing to conduct a proper investigation under the circumstances; and by

generally failing to conduct a reasonable and diligent evaluation of and report on Agape, knowing that the information provided to Plaintiff and others, as lay people, would be relied upon to make significant monetary investments.

11. That by acting as aforesaid, D&B acted with a reckless disregard for the consequences of its actions and how those actions and consequences would affect Plaintiff.

**AS AND FOR A FIRST CAUSE OF ACTION,
GROSS NEGLIGENCE**

12. Plaintiff repeats and reiterates each and every allegation contained in paragraphs number "1" through "11" as if fully set forth herein.

13. That Defendant had a duty of care to the Plaintiff as a result of the existing contractual relationship between the parties.

14. That Defendant, its agents, servants, and/or employees failed to use even a slight degree of care, which was required and expected in regard to its dissemination of information.

15. That Defendant, its agents, servants, and/or employees acted with reckless disregard as to the truth of the information provided to Plaintiff and the consequences of its actions.

16. That the negligence of Defendant, its agents, servants, and/or employees was the actual cause of Plaintiff's injury herein.

17. That the negligence of Defendant, its agents, servants, and/or employees was the proximate cause of Plaintiff's injury herein.

18. That, by reason of Defendant's negligence, Plaintiff was damaged in the sum of SEVENTY FIVE THOUSAND and 00/000 (\$75,000.00) DOLLARS. Plaintiff further demands punitive damages against Defendant, DUN & BRADSTREET, INC., in the amount of FIVE

MILLION and 00/000 (\$5,000,000.00) DOLLARS.

**AS AND FOR A SECOND CAUSE OF ACTION,
NEGLIGENT MISREPRESENTATION**

19. Plaintiff repeats and reiterates each and every allegation contained in paragraphs number "1" through "18" as if fully set forth herein.

20. Defendant had a duty to use reasonable care to impart correct information to Plaintiff due to a special relationship which existed between Plaintiff and Defendant by virtue of their contractual agreement for services provided by Defendant.

21. Defendant possesses unique and specialized expertise in making an assessment of the financial stability, integrity and solvency of small businesses, such as Agape, for purposes of investment consultation, and Plaintiff sought such expert analysis from Defendant.

22. The information conveyed to Plaintiff by Defendant regarding Agape was false, inaccurate and/or incomplete.

23. Defendant was aware that Plaintiff intended to rely on said information and to use the information provided by Defendant for purposes of deciding whether to invest in Agape.

24. Plaintiff did so reasonably rely on Defendant to furnish him with true, accurate and reliable information pertaining to Agape in his attempt to make prudent, knowledgeable and informed investment decisions.

25. That, by reason of Defendant's negligent misrepresentation to Plaintiff, Plaintiff was damaged in the sum of SEVENTY FIVE THOUSAND and 00/000 (\$75,000.00) DOLLARS.

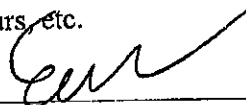
WHEREFORE Plaintiff, JOHN SCHERILLO, demands judgment as follows:

On the FIRST CAUSE OF ACTION, SEVENTY FIVE THOUSAND and 00/000 (\$75,000.00) DOLLARS in compensatory damages and FIVE MILLION and 00/000 (\$5,000,000.00) DOLLARS in punitive damages; and

On the SECOND CAUSE OF ACTION, SEVENTY FIVE THOUSAND and 00/000 (\$75,000.00) DOLLARS in compensatory damages, together with any further relief the Court may deem to be just and proper.

Dated: Mineola, New York
March 3, 2009

Yours, etc.



ELIOT F. BLOOM, ESQ.
LAW OFFICES OF ELIOT F. BLOOM, P.C.
Attorney for Plaintiff
114 Old Country Road, Suite 308
Mineola, New York 11501
(516) 739-5300