

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

In the Matter of)
)
)
EDUCATIONAL RESEARCH CENTER)
OF AMERICA, INC., and)
STUDENT MARKETING GROUP, INC.,)
corporations, and)
)
MARIAN SANJANA, individually and as an officer of)
EDUCATIONAL RESEARCH CENTER OF)
AMERICA, INC., and)
)
JAN STUMACHER, individually and as an officer of)
STUDENT MARKETING GROUP, INC.)
)

DECISION AND ORDER

Docket No. C-4079

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Respondents named in the caption hereof, and the Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondents with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 et seq;

The Respondents, their attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), an admission by the Respondents of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondents have violated the said Act, and that a Complaint should issue stating

its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure described in Section 2.34 of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent Educational Research Center of America, Inc. (“ERCA”) is a Pennsylvania corporation with its principal office or place of business headquartered in Pittsburgh, Pennsylvania.

2. Respondent Marian Sanjana is an officer of ERCA. Her principal office or place of business is the same as that of ERCA.

3. Respondent Student Marketing Group, Inc. (“SMG”) is a New York corporation with its principal office or place of business at 300 Merrick Road, Suite 206, Lynbrook, New York 11563.

4. Respondent Jan Stumacher is an officer and director of SMG. His principal office or place of business is the same as that of SMG.

5. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Personally identifiable information” or “personal information” shall mean individually identifiable information from or about an individual including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual’s email address; (d) a telephone number; (e) a Social Security Number; (f) an Internet Protocol (“IP”) address or host name that identifies an individual; (g) a persistent identifier, such as a customer number held in a “cookie” or processor serial number, that is combined with other available data that identifies an individual; or (h) any information, including, but not limited to, grade point average, date of birth, academic or occupational interests, athletic or extracurricular interests, racial or ethnic background, or religious affiliation, that is combined with any of (a) through (g) above.

2. “Noneducational-related marketing purpose” shall mean for the purpose of marketing products or services, or selling personally identifiable information from or about an individual for

use in marketing products or services to individuals. Provided, however, that “noneducational-related marketing purpose” does

IV.

IT IS FURTHER ORDERED that Respondents shall delete all personally identifiable information collected through surveys distributed prior to the date of service of this order from any student who was under the age of thirteen at the time of collection.

V.

IT IS FURTHER ORDERED that Respondents ERCA and SMG, and their successors and assigns, and Respondents Marian Sanjana and Jan Stumacher shall, for a period of five (5) years after the date of issuance of this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying a print or electronic copy of all documents demonstrating their compliance with the terms and provisions of this order, including, but not limited to:

- A. a sample copy of each different survey form, privacy statement, or communication relating to the collection of personally identifiable information to students, parents, educators, or educational institutions containing representations about how personally identifiable information will be used or disclosed. Each Web page copy shall be dated and contain the full URL of the Web page where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting the information on the Web;
- B. a sample copy of each different document containing the disclosure required by Part II of this order; and
- C. all invoices, communications, and records relating to the use or disclosure of personally identifiable information for any noneducational-related marketing purpose.

VI.

IT IS FURTHER ORDERED that Respondents ERCA and SMG, and their successors and assigns, and Respondents Marian Sanjana and Jan Stumacher shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order. Respondents shall deliver this order to such current personnel within thirty (30) days after the date of service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

X.

This order will terminate on May 6, 2023, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that a Respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been