

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

FEDERAL TRADE COMMISSION,)	
Plaintiff,)	No. 06CV0105D
v.)	ORDER AND JUDGMENT FOR
)	PERMANENT INJUNCTION AND
ACCUSEARCH, INC. d/b/a Abika.com,)	OTHER EQUITABLE RELIEF
and JAY PATEL,)	
Defendants.)	

ORDER AND JUDGMENT

service received by a customer of a carrier, which includes, but is not limited to, telephone call detail records,

3. “Consumer personal information” means any individually identifiable information concerning a consumer, including, but not limited to: (a) an unpublished or unlisted

A. Purchasing, marketing, offering for sale, or selling, or causing another to purchase, market, offer for sale, or sell consumer personal information without the express written permission of the person whose personal information is obtained, marketed, offered for sale, or sold, unless such consumer personal information was lawfully obtained from publicly available information;

B. Making false or deceptive statements or representations, including but not limited to, impersonating any person or entity, directly or by implication, to any person or entity in order to obtain consumer personal information; and

C. Requesting any person or entity to purchase consumer personal information relating to any third person, or otherwise purchasing consumer personal information from any person or entity, unless the person making such a request has a reasonable basis to believe the means by which the other person or entity will obtain the information are lawful and not in violation of any law or regulation or of this Order including, without limitation, Section II.A and B of this Order.

III. NOTIFICATION

IT IS FURTHER ORDERED that:

A. The FTC may provide, to the extent practicable, a notice to individuals whose customer phone records defendants sold from February 2003 to the date of entry of this Order, informing the individuals that defendants acquired and sold their phone records, the dates defendants sold the records, and the identity of the persons to whom defendants sold the records.

A. Judgment is hereby entered against defendants, jointly and severally, in the amount of \$199,692.71;

B. Within ten (10) days of receipt of notice of entry of this Order, defendants shall transfer payment in the form of a certified check made payable to and delivered to the

of this Order, defendants shall deliver copies of the Order as directed below:

A. Defendant AccuSearch, Inc., must deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant AccuSearch, 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 five (5)

sufficient. If a person receiving a copy of the Order pursuant to Section V refuses to acknowledge receipt, defendant Jay Patel may submit a signed affidavit stating that a copy of the Order has been provided to the person but that the person refuses to acknowledge receipt thereof.

VI. RECORD-KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of four (4) years from the date of entry of this Order, each defendant, in connection with any business where (1) such defendant is the majority owner, or directly or indirectly manages or controls the business, and (2) the business is engaged in or assists others engaged in conduct related to the subject matter of the Order, and their agents, employees, officers, corporations, successors and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, 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. Written 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 websites, sales scripts, training materials, advertisements, or other marketing materials, and records that accurately reflect the time periods during which such materials were used and the persons and business entities that used such materials;

F. To the extent consumer personal information is purchased through any third party, records that accurately reflect the name, address, and telephone number of such third party including, but not limited to, copies of all contracts and correspondence (other than correspondence that contains consumer personal information) between any defendant and such third party; and

G. 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 Section V.D of this Order and all reports submitted to the FTC pursuant to Section VII of this Order.

VII. 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 three (3) years from the date of entry of this Order, defendant Jay Patel shall comply with the following:

1. Defendant Jay Patel shall notify the FTC of the following:

a. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in his employment status (including self-employment), and any change in his ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business or employment; and

c. Any changes in his name or use of any aliases or fictitious names;

2. Defendants shall notify the FTC of any changes in the corporate structure of defendant AccuSearch, Inc., or any business entity that defendant Jay Patel directly or

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about which the defendants learn less than thirty (30) days prior to the date such action is to take place, defendants shall notify the FTC as soon as is practicable after obtaining such knowledge;

B. One hundred eighty (180) days after the date of entry of this Order, each defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which each has complied and is complying with this Order. This report shall include, but not be limited to:

1. For defendant Jay Patel:
 - a. His then-current residence address, mailing addresses, and telephone numbers;
 - b. His then-current employment and business addresses and telephone

C. For the purposes of this Order, defendants shall, unless otherwise directed by the FTC's authorized representatives, mail all written notifications to the FTC to:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue NW
Room NJ2122
Washington, DC 20580
Re: FTC v. AccuSearch, Inc.

VIII. 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 FTC, defendants 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 defendants' possession, or direct or indirect control, to inspect the business operation;

B. In addition, the FTC 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; and

2. Posing as consumers and suppliers to: defendants, defendants' employees, or any other entity managed or controlled, in whole or in part, by defendants, without the

necessity of identification or prior notice; and

C. Defendants shall permit representatives of the FTC 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 FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or



UNITED STATES DISTRICT JUDGE