

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

In the Matter of	)	
	)	
ANDREW N. FINKEL, individually.	)	<b>DOCKET NO.</b>
	)	
	)	<b>AGREEMENT CONTAINING</b>
	)	<b>CONSENT ORDER</b>
	)	
	)	

The Federal Trade Commission (“Commission”) has conducted an investigation of certain acts and practices of Andrew N. Finkel (“proposed respondent”), the software developer for Acne Pwnr, a mobile application. Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Andrew N. Finkel and counsel for the Federal Trade Commission that:

1. Proposed respondent Andrew N. Finkel is a software developer. His principal office or place of business is located in Rochester, New York.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives:
  - a. Any further procedural steps;
  - b. The requirement that the Commission’s decision contain a statement of findings

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time frame provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft complaint and consent order. Proposed respondent understands that he may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

## ORDER

### DEFINITIONS

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

1. Unless otherwise specified, "respondent" shall mean Andrew N. Finkel.
2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
3. The term "including" in this order shall mean "without limitation."
4. The terms "and" and "or" in this order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.
5. The term "device" in this order shall be construed as a "device" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

### I.

IT IS ORDERED that respondent, directly or through any corporation, partnership, subsidiary, division, trade name, or other means, in connection with the manufacturing, labeling,

advertising, promotion, offering for sale, sale, or



acknowledging receipt of this order. For current personnel, delivery shall be within five (5) days of the date of service of this order. For new personnel, delivery shall occur prior to their first assuming their responsibilities.

VI.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to creating, or assuming any ownership interest in, any corporation that may affect compliance obligations arising under this order. Provided, further, that respondent shall notify the Commission at least thirty (30) days prior to the dissolution, assignment, sale, merger, or other action involving such corporation that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the name or address of such corporation. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, the respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line *In the Matter of Andrew N. Finkel*. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an eh noticesTj101527031020000(hgsp5001000

