

UNITED STATES OF AMERICA
 FEDERAL TRADE COMMISSION

In the Matter of)	
)	AGREEMENT CONTAINING
COMPETE, INC.,)	CONSENT ORDER
a corporation.)	FILE NO. 102 3155
)	

The Federal Trade Commission has conducted an investigation of certain acts and practices of Compete, Inc. ("proposed respondent"). 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 Compete, Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Compete, Inc., is a Delaware corporation with its principal place of business at 501 Boston Street, Suite 6101, Boston, Massachusetts.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives the Commission's decision contain a statement of findings

of fact and conclusions of law; and

- C. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and notify proposed respondent, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such

form as the circumstances may require) and decision in disposition of the proceeding.

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B. In communications disse

7. "Personal Information" shall mean individually identifiable information from or about an individual consumer including, but not limited to: (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 identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver's license number or other government-issued identification number; (g) a bank account, debit card, or credit card account number; (h) persistent identifiers such as a customer number held in a "cookie" or static IP address; or (i) a biometric record.
8. "Third Party" shall mean any individual or entity other than respondent, except that a third party shall not include a service provider of respondent that:
 - A. Only uses or receives information collected by or on behalf of respondent for and at the direction of the respondent and no other individual or entity;
 - B. Does not disclose the information, or any individually identifiable information derived from it, to any individual or entity other than respondent; and
 - C. Does not use the information for any other purpose
9. Unless otherwise indicated, "respondent" shall mean Competent, and its successors and assigns, and its officers, agents, representatives, and employees.

I.

IT IS ORDERED that respondent, directly or indirectly, including through any contract, agreement, license, sale, or arrangement with any Third Party, is prohibited from:

- A. Collecting any information from any Data Collection Agent made available to consumers directly by respondent after the date of service of this order, unless prior to such collection respondent has:
 1. Disclosed to the consumer clearly and prominently and prior to the display of and on a separate screen from, any "end user license agreement," "privacy policy," "terms of use" page, or similar document:
 - a) all the types of information that will be collected, including, but not limited to, if applicable, a statement that the information includes consumer transactions (both completed and incomplete) or communications in forms, online accounts, web-based email accounts, or search engine pages, and whether the information includes personal, financial or health information; and

- b) how the information is to be used, including if it is shared with any Third Party and
 - 2. Obtained express affirmative consent from the consumer to the collection, use or sharing of the information.
- B. Collecting any information from any Data Collection Agent made available to consumers by a Third Party after the date of service of this order, unless prior to such collection respondent has provided the disclosure and obtained the consent described in subpart A(1-2), or has both required the Third Party by contract to do so, and monitored compliance with such contractual provisions.
- C. Collecting any information from any Data Collection Agent that was made available to consumers before the date of service of this order, unless it has made the disclosure and obtained the express affirmative consent described in subpart A(1-2) or:
 - 1. It has made the disclosure required by Part I(A)(3); and
 - 2. It does not use information collected from an Affected Consumer by a Data Collection Agent, except in an aggregate and/or anonymous form that does not disclose, report, or otherwise share any individually identifiable information.
- D. Using any Collected Information gathered on or after February 1, 2010, unless it has obtained express affirmative consent from the consumer to the use of the Collected Information, or
 - 1. It does not use the Collected Information, except in aggregate and/or anonymous form that does not disclose, report, or otherwise share any individually identifiable information; and
 - 2. It does not otherwise access any Affected Consumers' personal information that was collected by a Data Collection Agent.
- E. Making any material change from stated practices about collection, use or sharing of such information, unless it has obtained express affirmative consent from the consumer.

Provided, however, this Part will not apply to the collection, use or sharing of information as reasonably necessary 1) to comply with applicable law, regulation, or legal process; 2) to enforce respondent's terms of use; 3) to detect, prevent, or mitigate

fraud or security vulnera

Agent.

- B. Provide prompt and free support with clear and prominent contact information to help consumers disable and/or uninstall a Data Collection Agent. For two (2) years after the date of service of this order, this support shall include toll-free, telephonic and electronic mail support.

III .

IT IS FURTHER ORDERED that before entering into any contract, agreement, license, sale, or arrangement with any Third Party in connection with any Data Collection Agent made available to consumers by such Third Party, Complete, Inc., and its successors and assigns, shall serve the Third Party with a copy of this order. For any existing contract, agreement, license, sale, or arrangement with any Third Party in connection with any Data Collection Agent made available to consumers by such Third Party, respondent shall serve the Third Party with a copy of this order within 30 days of service of this order.

IV.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary division, website, or other device, in connection with the offering of any service or product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the extent to which respondent controls, maintains and protects the security, privacy, confidentiality, or integrity of any information collected from or about consumers, unless the representation is true and accurate.

- B. The identification of material internal and external risks that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of personal information and an assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management; (2) information systems, including network and software design, information processing, storage, transmission, and disposal; and (3) prevention, detection, and response to attacks, intrusions, account takeovers, or other systems failures;
- C. The design and implementation of reasonable safeguards to control the risks identified through risk assessment, and regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;
- D. The development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information such as service providers receive from respondent or obtain on respondent'

- A. Set forth the specific administrative, technical, and physical safeguards that respondent has implemented and maintained during the reporting period;
- B. Explain how such safeguards are appropriate to respondent's size and complexity, and the nature and scope of respondent's activities, and the sensitivity of the personal information collected from or about consumers;
- C. Explain how the safeguards that have been implemented meet or exceed the protections required by Part V of this order and
- D. Certify that respondent's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Respondent shall provide the Assessment to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by respondent until the order is terminated and provided to the Associate Director of Enforcement within ten (10) days of request.

VII.

IT IS FURTHER ORDERED that Complete, Inc., and its successors and assigns, shall, within fourteen (14) days after the date of service of this order, delete or destroy, Collected Information in respondent's custody or control that was collected prior to February 1, 2010, unless otherwise directed by a representative of the Commission.

VIII.

IT IS FURTHER ORDERED that Complete, Inc., and its successors and assigns, shall, for a period of five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representation;
- B. All materials relied upon in disseminating the representation;

- C. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify or call into question the representation, or the basis relied upon of the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. All acknowledgments of receipt of this order obtained pursuant to Part X.
- E. All notices related to service of the order on Third Parties, pursuant to Part III.
- F. All materials demonstrating compliance with Part (B), including all contracts and measures to monitor compliance.

Moreover, for a period of three (3) years after the date of preparation of each Assessment required under Part VI of this order, respondent shall maintain and upon request make available to the Commission for inspection and copying all materials relied upon to prepare the Assessment, whether prepared by or on behalf of the respondent, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments for the compliance period covered by such Assessment.

IX.

IT IS FURTHER ORDERED that Complete, Inc., and its successors and assigns, shall deliver a copy of this order to: (1) all current and future principals, officers, and directors; and (2) all current and future managers who have responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order with any electronic signatures complying with the requirements of the E-Sign Act, 15 U.S.C. § 7001 et seq. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of the order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

X.

IT IS FURTHER ORDERED that Complete, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in respondent that may affect compliance obligations arising under this order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company, the creation or dissolution of a subsidiary (including an LLC), parent, or affiliate that engages in any acts or practices subject to this order; the proposing of a bankruptcy petition; or a change in respondent's name or address. Provided, however, that with respect to any proposed change about which respondent learns less than thirty (30) days prior to the date such action is to take place, 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 of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

Signed this _____ day _____, 2012.

COMPETE, INC.

By: _____
SCOTT ERNST
President
Compete, Inc.

By: _____
CHRISTOPHER WOLF
Hogan Lovells US LLP
Counsel for Respondent

By: _____
GARY KIBEL
Davis & Gilbert LLP
Counsel for Respondent

FEDERAL TRADE COMMISSION

By: _____
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Counsel for the Federal Trade Commission

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