

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 0:14-cv-60143-KMM

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

KOBENI INC., a Florida Corporation, and  
YAIR SHALEV, individually, and as an officer  
or director of KOBENI INC.,

Defendants.

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**STIPULATED ORDER FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) against Kobeni Inc. and Yair Shalev on January 21, 2014, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”), 15 U.S.C. § 7706(a). The Commission and Defendants, having been represented by counsel, and acting by and through said counsel, stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (the “Order”) to resolve all matters in dispute among them in this action.

THEREFORE, Plaintiff and Defendants, having

## DEFINITIONS

For purposes of this Order, the following definitions apply:

1. “Corporate Defendant” means Kobeni Inc. and its successors and assigns.

2. “Defendants” means the Individual Defendant and the Corporate

Defendant, individually, collectively, or in any combination.

3. “Individual Defendant” means Yair Shalev.

4. “Person” or “persons” includes a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

5. “Plaintiff” means the Federal Trade Commission (“FTC” or “Commission”).

6. “Commercial electronic mail message” means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose). 15 U.S.C. § 7702(2).

7. “Electronic mail message” (or “email”) means a message sent to a unique electronic mail address. 15 U.S.C. § 7702(6).

8. “Electronic mail address” means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the “local part”) and a reference to an Internet domain (commonly referred to as the “domain part”), whether or not displayed, to which an electronic mail message can be sent or delivered. 15 U.S.C. § 7702(5).

9. “Initiate,” when used with respect to a commercial email message,

D. any material restrictions, limitations, or conditions to purchase, receive, or use a good or service;

E. any material aspect of the performance, efficacy, nature, or central characteristics of a good or service; and

F. any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for a good or service.

## **II.**

### **PROHIBITED CAN-SPAM PRACTICES**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering

### **III.**

#### **MONETARY JUDGMENT**

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of three hundred fifty thousand United States dollars (\$350,000 (USD)) is entered in favor of the Commission against the Individual and Corporate Defendant (only one corporation), jointly and severally, as equitable monetary relief;
- B. Defendants are ordered to pay to the Commission three hundred fifty thousand



Defendant obtained prior to entry of this Order in connection with the transmission of commercial email messages marketing or advertising health insurance; and

B. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

**V.**

**ORDER ACKNOWLEDGMENTS**

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury;

B. For five (5) years after entry of this Order, Individual Defendant for any business that he, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and the Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities; and



C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

## **VI.**

### **COMPLIANCE REPORTING**

an employee or otherwise and any entity in which he has any ownership interest; and (c) describe in detail his involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For ten (10) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of the Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest, and identify the name, physical address, and Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. §1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America

that the foregoing is true and correct. Executed on:\_\_\_\_\_” and supplying

D. All records necessary to demonstrate

