

1 NOT FOR PUBLICATION

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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Federal Trade Commission,
10 Plaintiff,

No. CV-10-00530-PHX-JJT
AMENDED ORDER

11 v.

12 LifeLock Incorporated et al.,
13 Defendants.

14 This Amended Order supersedes the Court's December 22, 2015 Order (Doc. 65).
15 Plaintiff Federal Trade Commission ("FTC" or "Commission") and Defendant LifeLock
16 Inc. ("LifeLock") have settled

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1 2. The Permanent Injunction enjoins LifeLock from “misrepresenting in any
2 manner, expressly or by implication, the manner or extent to which they maintain and
3 protect the privacy, confidentiality, or security of any personal information collected
4 from or about consumers” (Section I.B.);

5 3. The Permanent Injunction requires LifeLock to “establish and implement,
6 and thereafter maintain, a comprehensive information security program” (Section II);

7 4. The Permanent Injunction further requires LifeLock to create and retain
8 “[a]ll records and documents necessary to determine if compliance with each
9 provision” of the Permanent Injunction (Section VIII.A.7);

10 5. On July 21, 2015, the Commission alleged that LifeLock violated the
11 Permanent Injunction by: (a) failing to establish and maintain a comprehensive
12 information security program to protect its users’ sensitive personal data, including credit
13 card, social security, and bank account numbers; (b) falsely advertising that it protected
14 consumers’ sensitive data with the same level safeguards as financial institutions;
15 (c) failing to meet the Permanent Injunction’s recordkeeping requirements; and (d)
16 falsely claiming it protected consumers’ identity 24/7/365 by providing alerts “as soon
17 as” it received any indication there was a problem;

18 6. LifeLock neither admits nor denies the allegations identified in Paragraph 5
19 above;

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DEFINITIONS

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2 1. “Affected Consumer(s)” means any person(s) who has subscribed to any
3 LifeLock fee-based identity theft protection service, and could assert a claim arising from
4 the types of violations alleged in Paragraph 5 of the Findings, excluding: LifeLock; any
5 parent, subsidiary, affiliate, or controlled person of LifeLock; the officers, directors,
6 agents, employees of LifeLock; any counsel in the Covered Class Action; and any judge
7 or court staff presiding over the Covered Class Action or this action.

8 2. “Covered Class Action” means *Napoleon Ebarle et al. v. LifeLock, Inc.*
9 No. 3:15-cv-258 (N.D. Cal. filed Jan. 19, 2015).

10 3. “Money Received” means money paid as restitution by LifeLock to
11 Affected Consumers by check, charge-back, or the transfer of funds, to the extent:

- 12 a. Such money was issued by LifeLock pursuant to settlement: (i) of
13 the Covered Class Action, or (ii) with any State Attorney General’s
14 Office entered within four (4) months from the date of this Order;
- 15 b. Either: (i) a credit card company, bank, or other financial institution
16 has credited the Affected Consumer’s financial account with such
17 money, or (ii) any such check has been cashed by the Affected
18 Consumer; and
- 19 c. Consumer information involved in payment of such money is
20 handled in a manner that is consistent with the Commission’s
21 privacy and data security standards, policies, and practices.

22 For the purpose of clarification, Money Received shall not include any
23 administrative fees, attorneys’ fees, or any other amount not directly issued
24 to an Affected Consumer, or any coupons, credits, or other consideration
25 applicable towards the purchase of products or services offered by
26 LifeLock or any other entity.

ORDER

IT IS ORDERED granting the Consent Motion for Entry of Order (Doc. 64).

I. PERMANENT INJUNCTION

IT IS FURTHER ORDERED that the Permanent Injunction shall remain in full force and effect except Sections VI through IX of the Permanent Injunction as to LifeLock, which are replaced with Sections V through VIII below.

II. MONETARY JUDGMENT AND CONSUMER REDRESS

IT IS FURTHER ORDERED that:

A. Judgment in the amount of One Hundred Million Dollars (\$100,000,000) is entered in favor of the Commission against LifeLock as equitable monetary relief.

B. LifeLock shall satisfy the judgment as follows:

1. Pursuant to L.R. Civ. 67.1 and Fed. R. Civ. P. 67, LifeLock shall:

(a) deposit One Hundred Million Dollars (\$100,000,000) ("Settlement Funds") into the Court's Registry within five (5)

business days of entry of this Order to be held in escrow for the sole purpose of distributing the funds in accordance with this Order, and

(b) comply fully with all of its obligations under Section II of this Order. LifeLock is hereby authorized to deposit One Hundred Million Dollars (\$100,000,000) to the Court's Registry.

2. If LifeLock fails to comply with Section II.B.1(a), the judgment amount of One Hundred Million Dollars (\$100,000,000) shall become immediately due and payable to the Commission, and LifeLock shall not have any right to any credit, offset, or any other reimbursement for any Money Received by Affected Consumers as provided in this Order.

C. The Settlement Funds shall include any interest that the funds accrue while in the Court's Registry, minus cost pursuant to L.R. Civ. 67.1.

1 D. The Settlement Funds shall be distributed by motions pursuant to this
2 Section II, if both of the following conditions are met: (1) LifeLock acts expeditiously to
3 obtain final court approval of the settlement agreement in the Covered Class Action; and
4 (2) all such motions are filed by the earlier of eighteen (18) months from the date of this
5 Order or two hundred seventy (270) days from the date of final court approval of the
6 settlement agreement in the Covered Class Action.

7 E. Subject to Section II.D, LifeLock may es up to Sixty Eight Million Dollars
8 (\$68,000,000) of the Settlement Funds to an escrow account established in the
9 Covered Class Action if all of the following conditions are met:

- 10 1. LifeLock has obtained preliminary court approval of the settlement
11 agreement in the Covered Class Action; and
- 12 2. The agreement governing the escrow fund ensures that:
 - 13 i. All payments from the escrow account are issued directly to
14 Affected Consumers for the sole purpose of providing
15 consumer redress;
 - 16 ii. All payments from the escrow account either become Money
17 Received by Affected Consumers within one hundred twenty
18 (120) days of such payment are returned immediately to
19 the escrow account;
 - 20 iii.

1 LifeLock shall immediately: (1) deposit to the Court's Registry as Settlement Funds
2 the amount of money in the escrow fund immediately prior to such non-compliance, or if
3 the Settlement Funds have already been transferred by the Court to the Commission
4 under Section II.J, (2) pay such amount directly to the Commission.

5 G. Subject to Sections II.D and H through II.H, LifeLock shall have a right to
6 the amount of Settlement Funds remaining in the Court's Registry equal to: (1) Money
7 Received by Affected Consumers, other than Money Received that was paid out of
8 an escrow account funded under Section II.D and compliant with Section II.D.2 at the
9 time of issuance of payment to the Affected Consumer, plus (2) the interest accrued on
10 such amount specified in subsection (1) while in the Court's Registry.

11 H. LifeLock shall have a right to seek disbursement of the funds identified in
12 Section II.G by motion in up to three (3) installments.

13 I. Under no circumstances shall LifeLock receive more than one (1)
14 disbursement from the Settlement Funds for each payment of Money Received by
15 Affected Consumers.

16 J. The Commission shall be entitled to all remaining Settlement Funds in the
17 Court's Registry: (1) upon the Court's resolution of all motions timely filed under this
18 Section II, or if no such timely filed motions are pending, (2) upon the expiration of the
19 deadline for motions in Section II.D.2.

20 K. If any portion of the Money Received by Affected Consumers for which
21 LifeLock received disbursement from the Settlement Funds is returned to LifeLock,
22 LifeLock shall remit such portion to the Commission within ten (10) business days.

23 L. All money paid to the Commission pursuant to this Order may be deposited
24 into a fund administered by the Commission or its designee to be used for equitable
25 relief, including consumer redress and attendant expenses for the administration of
26 any redress fund. If a representative of the Commission decides that direct redress to
27 consumers is wholly or partially impracticable or money remains after redress is
28 completed, the Commission may apply any remaining money for such other equitable

1 relief (including consumer information remedies) as it determines to be reasonably
2 related to LifeLock's practices as set forth in this Order. Any money not used for such
3 equitable relief is to be deposited to the U.S. Treasury as disgorgement. LifeLock has no
4 right to challenge any actions the Commission's representatives may take pursuant to
5 this Subsection.

6 M. LifeLock relinquishes dominion and all legal and equitable right, title, and
7 interest in all assets transferred to the C's Registry or to the Commission pursuant to
8 this Order, except as specified in Sections II.D through II.J.

9 N. LifeLock warrants and represents that as of the date it executes this Order,
10 after giving effect to Section II, LifeLock is not: (1) be insolvent (either because its
11 financial condition is such that the sum of its debts is greater than its assets, or because

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submissions to the CommissionTw [(supursuant)]TJ 19 f 302 023 Tc 06877 [()

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D. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9a and 20 of the FTC Act, 15 S.C. §§ 49, 57b-1, to obtain

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6. Any documents, whether prepared by or on behalf of LifeLock, that contradict, qualify or call into question LifeLock’s compliance with Sections I, II, and III of the Permanent Injunction; and

7. All records and documents necessary to demonstrate full compliance with each provision of the Permanent Injunction and this Order, including but not limited to, copies of acknowledgments of receipt required by the Permanent Injunction and this Order, all reports submitted to the FTC pursuant to the Section of this Order titled “Compliance Reporting.”

B. For a period of three (3) years after the date of preparation of each Assessment required under this Section of the Permanent Injunction titled “Biennial Assessment Requirements”: All material relied upon to prepare the Assessment, whether prepared by or on behalf of LifeLock, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to LifeLock compliance with the Section of the Permanent Injunction titled “Biennial Assessment Requirements.”

C. For a period of five (5) years from the date of entry of this Order, records and documents sufficient to provide all material facts regarding Money Received by Affected Consumers and the administration of escrow accounts funded under Section II.E, including but not limited to: (1) identity of each Affected Consumer who received a payment, (2) the amount of each payment, (3) the manner in which LifeLock issued each payment, (4) the date of each payment, (5) evidence that each payment was credited to an Affected Consumer’s financial account or was otherwise cashed, and (6) all escrow account activity and balances.

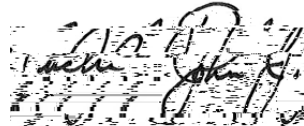
VIII.

1 A. LifeLock must deliver a copy of the Permanent Injunction and this Order
2 to: (1) all of its principals, officers, directors, and managers; (2) all of its employees,
3 agents, and representatives who engage in conduct related to the subject matter of the
4 Permanent Injunction and this Order; and (3) any business entity resulting from any
5 change in structure set forth in Subsection A of the Section of this Order titled
6 "Compliance Reporting." For current persons, delivery shall occur within seven (7)
7 days of entry of this Order. For all others, delivery shall occur prior to them assuming
8 their responsibilities. For any business entity resulting from any change in structure set
9 forth in Subsection A of the Section of this Order titled "Compliance Reporting,"
10 delivery shall be at least ten (10) days prior to the change in structure.

11 B. LifeLock must secure signed and dated statements acknowledging receipt
12 of the Permanent Injunction and this Order within thirty (30) days of delivery, from all
13 persons receiving a copy of the Permanent Injunction and this Order pursuant to this
14 Section.

15 IX. ACKNOWLEDGEMENT OF RECEIPT OF TF7

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A handwritten signature in black ink, appearing to be "John H.", is located in the lower right quadrant of the page. The signature is somewhat stylized and partially overlaps with some faint, illegible text or a stamp.