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18 **UNITED STATES DISTRICT COURT**
 19 **DISTRICT OF NEVADA**

20
 21 UNITED STATES OF AMERICA,
 22 Plaintiff,
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 24 v.
 25 PRIME SITES, INC., a Nevada corporation,
 also doing business as EXPLORE TALENT,
 26 Defendant.

Case No. 2:18-cv-199

**[PROPOSED] STIPULATION AND
 ORDER FOR PERMANENT
 INJUNCTION AND CIVIL PENALTY
 JUDGMENT**

1 Plaintiff, the United States of America, acting upon notification and authorization to the
2 Attorney General by the Federal Trade Commission (“Commission”), filed its Complaint for
3 Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to
4 Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C.
5 §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6502(c) and
6 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“COPPA Rule”), 16
7 C.F.R. Part 312. Defendant has waived service of the summons and the Complaint. Plaintiff and
8 Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil
9 Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.
10

11 THEREFORE, IT IS ORDERED as follows:

12
13 **FINDINGS**

- 14 1. This Court has jurisdiction over this matter.
- 15 2. The Complaint charges that Defendant participated in deceptive acts or practices
16 in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by misrepresenting the benefits of paid
17 membership in, and Defendant’s practices relating to personal information collected from
18 children in connection with, Defendant’s online talent search network.
- 19 3. The Complaint also charges that Defendant violated the COPPA Rule by failing
20 to provide notice to parents of its information practices, and to obtain verifiable parental consent
21 prior to collecting, using, or disclosing personal information from children.
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- 23 4. Defendant neither admits nor denies any of the allegations in the Complaint,
24 except as specifically stated in this Order. Only for purposes of this action, Defendant admits the
25 facts necessary to establish jurisdiction.
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5. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.

6.

1 b. Making personal information collected by an operator from a child
2 publicly available in identifiable form by any means, including but not
3 limited to a public posting through the Internet, or through a personal
4 home page or screen posted on a website or online service; a pen pal
5 service; an electronic mail service; a message board; or a chat room.
6

7 5. “Internet” means collectively the myriad of computer and telecommunications
8 facilities, including equipment and operating software, which comprise the interconnected world-
9 wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or
10 any predecessor or successor protocols to such protocol, to communicate information of all kinds
11 by wire, radio, or other methods of transmission.
12

13 6. “Obtaining verifiable consent” means making any reasonable effort (taking into
14 consideration available technology) to ensure that before personal information is collected from a
15 child, a parent of the child:

- 16 a. Receives notice of the operator’s personal information collection, use, and
17 disclosure practices; and
18 b. Authorizes any collection, use, and/or disclosure of the personal
19 information.
20

21 7. “Online contact information” means an e-mail address or any other substantially
22 similar identifier that permits direct contact with a person online, including but not limited to, an
23 instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat
24 user identifier.
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26 8. “Operator” means any person who operates a website located on the Internet or an
27 online service and who collects or maintains personal information from or about the users of or
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visitors to such website or online service, or on whose -2(a)1e sf. 66 s 2:18-cv-00199 4.77 -2.EMC BT -554

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9. “Parent” includes a legal guardian.

10. “Person” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

11. “Personal information” means individually identifiable information about an individual collected online, including:

- a. A first and last name;
- b. A home or other physical address including street name and name of a city or town;
- c. Online contact information;
- d. A screen or user name where it functions in the same manner as online contact information;
- e. A telephone number;
- f. A Social Security number;

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vii. Fulfill a request of a child as permitted by Section 312.5(c)(3) and (4) of COPPA;

b. So long as the information collected for these activities listed in a(i) – (vii) is not used or disclosed to contact a specific individual, including through behavioral advertising, to amass a profile on a specific individual, or for any other purpose.

14. “Third party” means any person who is not:

a. An operator with respect to the collection or maintenance of personal information on the website or online service; or

b. A person who provides support for the internal operations of the website or online service and who does not use or disclose information protected under this part for any other purpose.

15. “Website or online service directed to children” means a commercial website or online service, or portion thereof, that is targeted to children.

ORDER

I. INJUNCTION CONCERNING COLLECTION OF PERSONAL

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1 A. failing to make reasonable efforts, taking into account available technology, to
2 ensure that a parent of a child receives direct notice of Defendants' practices with regard to the
3 collection, use, or disclosure of personal information from children, including notice of any
4 material change in the collection, use, or disclosure practices to which the parent has previously
5 consented;

6
7 B. failing to post a prominent and clearly labeled link to an online notice of its
8 information practices with regard to children on the home or landing page or screen of its
9 website or online service, and at each area of the website or online service where personal
10 information is collected from children;

11 C. failing to obtain verifiable parental consent before any collection, use, or
12 disclosure of personal information from children, including consent to any material change in the
13 collection, use, or disclosure practices to which the parent has previously consented; and
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15 D. violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312, a
16 copy of which is attached hereto as Appendix A.

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18 **II.** _____
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1 personal information need not be disposed of, and may be disclosed to the extent requested by a
2 government agency or required by law, regulation, or court order

3 **III. MONETARY JUDGMENT FOR CIVIL PENALTY**

4 **IT IS FURTHER ORDERED that:**

5 **A Judgment in the amount of Five Hundred Thousand Dollars (\$500,000) entered**
6 **in favor of Plaintiff against Defendant civil penalty.**

7 **B. Defendant is ordered to pay to Plaintiff, by making payment to the Treasurer of**
8 **the United States Two Hundred Thirty-Five Thousand Dollars (\$235,000). Such payment must**
9 **be made within ninety (90) days of entry of the Order, unless otherwise agreed to by counsel for**
10 **the Commission, by electronic fund transfer in accordance with instructions previously provided**
11 **by a representative of Plaintiff. If such payment, the remainder of the judgment is**
12 **suspended, subject to the Subsections below**

13 **C. The Commission and Plaintiff's agreement to the suspension of part of the**
14 **judgment is expressly premised upon the truthfulness, accuracy, and completeness of the**
15 **following sworn financial statements and related documents (collectively, "financial**
16 **representations") submitted to the Commission, namely:**

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20 1. **the Financial Statement of Defendant Prime Sites, Inc. signed by A**
21 **Shfir, President on September 29, 2017, including the attachments; and**
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1 7. describe in detail the means provided for parents to review the personal
2 information collected from their children and to refuse to permit its further use or maintenance;
3 and

4 8. provide a copy of each Order Acknowledgment obtained pursuant to this
5 Order, unless previously submitted to the Commission.
6

7 B. For 20 years after entry of this Order, Defendant must submit a compliance
8 notice, sworn under penalty of perjury, within 14 days of any change in any designated
9 point of contact; or (2) the structure of Defendant or any entity that Defendant has any ownership
10 interest in or controls directly or indirectly that may affect compliance obligations arising under
11 this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary,
12 parent, or affiliate that engages in any acts or practices subject to this Order.
13

14 C. Defendant must submit to the Commission notice of the filing of any bankruptcy
15 petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14
16 days of its filing.
17

18 D. Any submission to the Commission required by this Order to be sworn under
19 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by
20 concluding: "I declare under penalty of perjury under the laws of the United States of America
21 that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's
22 full name, title (if applicable), and signature.
23

24 E. Unless otherwise directed by a Commission representative in writing, all
25 submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or
26 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,
27
28

1 Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue
2 Washington, DC 20580. The subject line must begin: _____, X_____.

3 VII. RECORDKEEPING

4 IT IS FURTHER ORDERED that Defendant must create certain records for 20 years
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IX. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED THAT THE COURT SHALL retain jurisdiction over the parties and the matter until such time as the parties have reached a mutually agreeable resolution of the matter.

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[REDACTED]

[REDACTED]

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16 Anderson

Defendant Prime Sites, Inc.

Attorneys for De

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Stacy M. Grandenburg

Date: 1-22-18

22 by Amy Shafir, President

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Appendix A: **Children's Online Privacy** **Protection Rule,** **16C. F**

D means making any reasonable effort (taking into consideration available technology) to ensure that before personal information is collected from a child, a parent of the child:

- (1) Receives notice of the operator's personal information collection, use, and disclosure practices; and
- (2) Authorizes any collection, use, and/or disclosure of the personal information.

E means an email address or any other substantially similar identifier that permits direct contact with a person online, including but not limited to, an instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat user identifier.

F means any person who operates a Web site located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such Web site or online service, or on whose behalf such information is collected or maintained, or offers products or services for sale through that Web site or online service, where such Web site or online service is operated for commercial purposes involving commerce among the several States or with 1 or more foreign nations; in any territory of the United States, the District of Columbia, or between any such territory and another such territory or any State or foreign nation; or between the District of Columbia and any State, territory, or foreign nation. This definition does not include any nonprofit entity that would otherwise be exempt from coverage under Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Personal information **G** an operator when:

- (1) It is collected or maintained by an agent or service provider of the operator; or
- (2) The operator benefits by allowing another person to collect personal information directly from users of such Web site or online service.

H includes a legal guardian.

I means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

J means individually identifiable information about an individual collected online, including:

- (1) A first and last name;
- (2) A home or other physical address including street name and name of a city or town;
- (3) Online contact information as defined in this section;
- (4) A screen or user name where it functions in the same manner as online contact information, as defined in this section;
- (5) A telephone number;
- (6) A Social Security number;



characters or child-oriented activities and incentives, music or other audio content, age of models, presence of child celebrities or celebrities who appeal to children, language or other characteristics of the Web site or online service, as well as whether advertising promoting or appearing on the Web site or online service is directed to children. The Commission will also consider competent and reliable empirical evidence regarding audience composition, and evidence regarding the intended audience.

- (2) A Web site or online service shall be deemed directed to children when it has actual knowledge that it is collecting personal information 13.1(t ((idea78(e11(ctly(ng)12.fro8(rm)18 u.8(si

- (a) General principles of notice. It shall be the obligation of the operator to provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children. Such notice must be clearly and understandably written, complete, and must contain no unrelated, confusing, or contradictory materials.
- (b) Direct notice to the parent. An operator must make reasonable efforts, taking into account available technology, to ensure that a parent of a child receives direct notice of the operator's practices with regard to the collection, use, or disclosure of personal information from children, including notice of any material change in the collection, use, or disclosure practices to which the parent has previously consented.
- (c) Content of the direct notice to the parent:
 - 1.

- ii. That the parent's online contact information will not be used or disclosed for any other purpose;
 - iii. That the parent may refuse to permit the child's participation in the Web site or online service and may require the deletion of the parent's online contact information, and how the parent can do so; and
 - iv. A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.
3. Content of the direct notice to the parent under §312.5(c)(4) (Notice to a Parent of Operator's Intent to Communicate with the Child Multiple Times) This direct notice shall set forth:
 - i. That the operator has collected the child's online contact information from the child in order to provide multiple online communications to the child;
 - ii. That the operator has collected the parent's online contact information from the child in order to notify the parent that the child has registered to receive multiple online communications from the operator;
 - iii. That the online contact information collected from the child will not be used for any other purpose, disclosed, or combined with any other information collected from the child;
 - iv. That the parent may refuse to permit further contact with the child and require the deletion of the parent's and child's online contact information, and how the parent can do so;
 - v. That if the parent fails to response to this direct notice, the operator may use the online contact information collected from the child for the purpose stated in the direct notice; and
 - vi. A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.
4. Content of the direct notice to the parent required under §312.5(c)(5) (Notice to a Parent In Order to Protect a Child's Safety) This direct notice shall set forth:
 - i. That the operator has collected the name and online contact information of the child and the parent in order to protect the safety of a child;
 - ii. That the information will not be used or disclosed for any purpose unrelated to the child's safety;
 - iii. That the parent may refuse to permit the use, and require the deletion, of the information collected, and how the parent can do so;
 - iv. That if the parent fails to respond to this direct notice, the operator may use the information for the purpose stated in the direct notice; and

- v. A hyperlink to the operator's online notice of its information practices required under paragraph (d) of this section.

(d) Notice on the Web site or online service. In addition to the direct notice to the parent, an operator must post a prominent and clearly labeled link to its online notice of its information practices with regard to children on the home or landing page or screen of its Web site or online service, in each area of the Web site or online service where personal information is collected from children. The link must be in close proximity to the requests for information in each such area. An operator of a general audience Web site or online service that has a separate children's area must post a link to a notice of its information practices with regard to children on the home or landing page or screen of the children's area. To be complete, the online notice of the Web site or online service's information practices must state the following:

1. The name, address, telephone number, and email address of all operators collecting or maintaining personal information from children through the Web site or online services. Provided that The operators of a Web site or online service may list the name, address, phone number, and email address of one operator who will respond to all inquiries from parents concerning the operators' privacy policies and use of children's information, as long as the names of all the operators collecting or maintaining personal information from children through the Web site or online service are also listed in the notice;
2. A description of what information the operator collects from children, including whether the Web site or online service enables a child to make personal information publicly available; how the operator uses such information; and, the operator's disclosure practices for such information; and
3. That the parent can review or have deleted the child's personal information, and refuse to permit further collection or use of the child's information, and state the procedures for doing so.

§312.5 Parental consent.

- (a)

2. Existing methods to obtain verifiable parental consent that satisfy the requirements of this paragraph include:
 - i. Providing a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, or electronic scan;
 - ii. Requiring a parent, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;
 - iii. Having a parent call a toll-free telephone number staffed by trained personnel;
 - iv. Having a parent connect to trained personnel via video-conference;
 - v. Verifying a parent's identity by checking a form of government-issued identification against databases of such information, where the parent's identification is deleted by the operator from its records promptly after such verification is complete; or
 - vi. Provided that an operator that does not "disclose" (as defined by §312.2) children's personal information, may use an email coupled with additional steps to provide assurances that the person providing the consent is the parent. Such

3. Where the sole purpose of collecting online contact information from a child is to respond directly on a one-time basis to a specific request from the child, and where such information is not used to re-contact the child or for any other purpose, is not disclosed, and is deleted by the operator from its records promptly after responding to the child's request;
4. Where the purpose of collecting a child's and a parent's online contact information is to

1. A description of the specific types of categories of personal information collected from children by the operator, such as name, address, telephone number, email address, hobbies, and extracurricular activities;
2. The opportunity at any time to refuse to permit the operator's further use or future online collection of personal information from that child, and to direct the operator to delete the child's personal information; and

An operator of a Web site or online service shall retain personal information collected online from a child for only as long as is reasonably necessary to fulfill the purpose for which the information was collected. The operator must delete such information using reasonable measures to protect against unauthorized access to, or use of, the information in connection with its deletion.

§312.11 Safe harbor requirements

- (g) *Operators' participation in safe harbor program.* An operator will be deemed to be in compliance with the requirements of §§312.2 through 312.8, and 312.10 if that operator complies with Commission-approved safe harbor program guidelines. In considering whether to initiate an investigation or bring an enforcement action against a subject operator for violations of this part, the Commission will take into account the history of the subject operator's participation in the safe harbor program, whether the subject operator has taken action to remedy such non-