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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **United States of America,**

11 Plaintiff,

12 vs.

13 **ConsumerInfo.com, Inc.,** a
14 corporation, also d/b/a as Experian
Consumer Services,

15 Defendant.
16

Case No. 8:23-cv-01494-FWS-JDE

**STIPULATED ORDER FOR
PERMANENT INJUNCTION,
CIVIL PENALTY JUDGMENT,
AND OTHER RELIEF [4]**

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18 Plaintiff, the United States of America, acting upon notification and
19 authorization to the Attorney General by the Federal Trade Commission
20 (“Commission”), filed its Complaint for Permanent Injunction, Civil Penalties, and
21 Other Relief (“Complaint”) for a permanent injunction, civil penalties, and other
22 relief in this matter, pursuant to Sections 13(b), 16(a), and 19 of the Federal Trade
23 Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b), 56, and 57b. Plaintiff and
24 Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction,
25 Civil Penalty Judgment, and Other Relief with the following terms to resolve all
26 matters in dispute in this action between them.
27

28 **THEREFORE, IT IS ORDERED** as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint charges that Defendant participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 7(a) of the Controlling Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”), 15 U.S.C. § 7706(a), in the initiation of commercial electronic mail messages.

3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.

4. 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.

5. Defendant and Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. “Clear(ly) and Conspicuous(ly)” means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- 1) In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.

- 1 2) A visual disclosure, by its size, contrast, location, the length of
2 time it appears, and other characteristics, must stand out from
3 any accompanying text or other visual elements so that it is
4 easily noticed, read, and understood.
- 5 3) An audible disclosure, including by telephone or streaming
6 video, must be delivered in volume, speed, and cadence
7 sufficient for ordinary consumers to easily hear and understand
8 it.
- 9 4) In any communication using an interactive electronic medium,
10 such as the Internet or software, the disclosure must be
11 unavoidable.
- 12 5) The disclosure must use diction and syntax understandable to
13 ordinary consumers and must appear in each language in which
14 the representation that requires the disclosure appears.
- 15 6) The disclosure must comply with these requirements in each
16 medium through which it is received, including all electronic
17 devices and face-to-face communications.
- 18 7) The disclosure must not be contradicted or mitigated by, or
19 inconsistent with, anything else in the communication.
- 20 8) When the representation or sales practice targets a specific
21 audience, such as children, the elderly, or the terminally ill,
22 “ordinary consumers” includes reasonable members of that
23 group.

24 B. “Commercial Electronic Mail Message” means any Electronic Mail
25 Message the primary purpose of which is the commercial advertisement or
26 promotion of a commercial product or service (including content on an Internet
27 website operated for commercial purpose).

1 C. "Defendant" means ConsumerInfo.com, Inc., also d/b/a Experian
2 Consumer Services, and its successors and assigns.

3 D. "Electronic Mail Address" means a destination, commonly
4 expressed as a string of characters, consisting of a unique user name or mailbox
5 (commonly referred to as the "local part") and a reference to an Internet domain
6 (commonly referred to as the "domain part"), whether or not displayed, to which
7 an Electronic Mail Message can be sent or delivered.

8 E. "Electronic Mail Message" means a message sent to a unique
9 Electronic Mail Address.

10 F. "Initiate" or "Initiating," when used with respect to a Commercial
11 Electronic Mail Message, means to originate or transmit or "

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1 of 16 C.F.R. § 316.3, the primary purpose of the message is to facilitate, complete,
2 or confirm a commercial transaction, including enrollment in a membership or
3 membership feature, that the recipient has previously agreed to enter into with the
4 sender.

5 B. Initiating or Procuring, to a Protected Computer, a Commercial
6 Electronic Mail Message that does not:

- 7 1) Contain a functioning return Electronic Mail Address or other
8 Internet-based mechanism, clearly and conspicuously
9 displayed, that a recipient may use to submit, in a manner
10 specified in the message, any Electronic Mail Message or
11 other form of Internet-based communication requesting not to
12 receive future Commercial Electronic Mail Messages from that
13 Sender at the Electronic Mail Address where the message was
14 received; and
- 15 2) Provide Clear and Conspicuous notice of the opportunity under
16 15 U.S.C. § 7704(a)(3) to decline to receive further Commercial
17 Electronic Mail Messages from the Sender; and

18 C. Violating Section 5 of the CAN-SPAM Act, 15 U.S.C. § 7704, a copy
19 of which is attached hereto as Exhibit A.

20 II. MONETARY JUDGMENT FOR CIVIL PENALTY

21 IT IS FURTHER ORDERED that:

22 A. Judgment in the amount of Six Hundred Fifty Thousand Dollars
23 (\$650,000) is entered in favor of Plaintiff against Defendant as a civil penalty.

24 B. Defendant is ordered to pay to Plaintiff, by making payment to the
25 Treasurer of the United States, Six Hundred Fifty Thousand Dollars (\$650,000),
26 which, as Defendant stipulates, its undersigned counsel holds in escrow for no
27 purpose other than payment to Plaintiff. Such payment must be made within 7 days
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1 of entry of this Order by electronic funds transfer in accordance with instructions
2 previously provided by a representative of Plaintiff.

3 III. ADDITIONAL MONETARY PROVISIONS

4 IT IS FURTHER ORDERED that:

5 A. Defendant relinquishes dominion and all legal and equitable right,
6 title, and interest in all assets transferred pursuant to this Order and may not seek
7 the return of any assets.

8 B. The facts alleged in the Complaint will be taken as true, without
9 further proof, in any subsequent civil litigation by or on behalf of the Commission,
10 including in a proceeding to enforce its rights to any payment or monetary
11 judgment pursuant to this Order.

12 C. Defendant acknowledges that Taxpayer Identification Numbers
13 (Social Security Numbers or Employer Identification Numbers) may be used for
14 collecting and reporting on any delinquent amount arising out of this Order, in
15 accordance with 31 U.S.C. §7701.

16 IV. ORDER ACKNOWLEDGMENTS

17 IT IS FURTHER ORDERED that Defendant obtains acknowledgments of
18 receipt of this Order:

19 A. Defendant, within 7 days of entry of this Order, must submit to the
20 Commission an acknowledgment of receipt of this Order sworn under penalty of
21 perjury.

22 B. For 3 years after entry of this Order, Defendant must deliver a copy of
23 this Order to: (1) all principals, officers, directors, and LLC managers and
24 members; (2) all employees having management responsibilities for compliance with
25 the CAN-SPAM Act, and all agents and representatives who participate in drafting,
26 designing, or creating Electronic Mail Messages to be sent to persons who use a
27 good or service from Defendant (for example, persons who have Experian
28 CreditWorks accounts) that facilitates the review, monitoring, modification, or

1 protection of consumer credit; and (3) any business entity resulting from any
2 change in structure as set forth in the Section titled Compliance Reporting.
3 Delivery must occur within 7 days of entry of this Order for current personnel. For
4 all others, delivery must occur before they assume their responsibilities.

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

8 V. COMPLIANCE REPORTING

9 IT IS FURTHER ORDERED that Defendant makes timely submissions to
10 the Commission:

11 A. One year after entry of this Order, Defendant must submit a
12 compliance report, sworn under penalty of perjury. Defendant must (a) identify the
13 primary physical, postal, and email addresses and telephone number, as designated
14 points of contact, which representatives of the Commission and Plaintiff may use
15 to communicate with Defendant; (b) identify all of Defendant's businesses by all of
16 their names, telephone numbers, and physical, postal, email, and Internet
17 addresses; (c) describe the activities of each business, including the goods and
18 services offered and the means of advertising, marketing, and sales; (d) describe in
19 detail whether and how Defendant is in compliance with each Section of this
20 Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to
21 this Order, unless previously submitted to the Commission.

22 B. For 10 years after entry of this Order, Defendant must submit a
23 compliance notice, sworn under penalty of perjury, within 14 days of any change in
24 the following: Defendant must report any change in: (a) any designated point of
25 contact; or (b) the structure of Defendant or any entity that Defendant has any
26 ownership interest in or controls directly or indirectly that may affect compliance
27 obligations arising under this Order, including: creation, merger, sale, or
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1 dissolution of the entity or any subsidiary, parent, or affiliate that engages in any
2 acts or practices subject to this Order.

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

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

12 E. Unless otherwise directed by a Commission representative in writing,
13 all submissions to the Commission pursuant to this Order must be emailed to
14 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
15 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
16 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
17 subject line must begin: FTC v. ConsumerInfo.com, Inc.

18 VI. RECORDKEEPING

19 IT IS FURTHER ORDERED that Defendant must create certain records for
20 10 years after entry of the Order, and retain each such record for 5 years.
21 Specifically, Defendant must create and retain the following records:

22 A. accounting records showing the revenues from all goods or services
23 sold;

24 B. personnel records showing, for each person providing services,
25 whether as an employee or otherwise, the person's name, title, and signature;
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1 C. records of all consumer complaints and refund requests concerning
2 the subject matter of this Order, whether received directly or indirectly, such as
3 through a third party, and any response;

4 D. all records necessary to demonstrate full compliance with each
5 provision of this Order, including all submissions to the Commission; and

6 E. a copy of each type of unique Electronic Mail Message transmitted to
7 persons who use a good or service from Defendant (for example, persons who have
8 Experian CreditWorks accounts) that facilitates the review, monitoring,
9 modification, or protection of consumer credit.

10 VII. COMPLIANCE MONITORING

11 IT IS FURTHER ORDERED that, for the purpose of monitoring
12 Defendant's compliance with this Order:

13 A. Within 14 days of receipt of a written request from a representative of
14 the Commission or Plaintiff, Defendant must: submit additional compliance reports
15 or other requested information, which must be sworn under penalty of perjury;
16 appear for depositions; and produce documents for inspection and copying. The
17 Commission and Plaintiff are also authori

1 Order limits the Commission's lawful use of compulsory process, pursuant to
2 Sections 9 and 20 of the FTC Act, 15 U.S.C §§ 49, 57b-1.

3 VIII. RETENTION OF JURISDICTION

4 IT IS FURTHER ORDERED that this Court retains jurisdiction of this
5 matter for purposes of construction, modification, and enforcement of this Order.

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7 IT IS SO ORDERED.

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10 Dated: August 21, 2023

11 _____
12 Hon. Fred W. Slaughter
13 UNITED STATES DISTRICT JUDGE

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Exhibit A



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108th Congress

An Act

[S. 877]

Congress assembled

Controlling the Solicited Pornography and Marketing Act of

the United States of America in C

SECTION 1. SHORT TITLE.

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note.

(a) FINDINGS.—The Congress finds the following:

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