

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CARE.COM, INC.,

Defendant.

Case No. 1:24-cv-987

**STIPULATED ORDER FOR
PERMANENT INJUNCTION,
MONETARY JUDGMENT, AND
OTHER RELIEF**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction, Monetary Judgment, and Other Relief (“Complaint”), for a permanent injunction, monetary relief, and other relief in this matter, pursuant to Sections 5(m)(1)(B), 13(b), 19 and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(m)(1)(B), 53(b), 57b and 56(a)(1), and under Section 5 of the Restore Online Shoppers’

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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 5 of ROSCA, 15 U.S.C. § 8404, in connection with the advertising, marketing, promotion, offering for sale, or sale of memberships to use its Platform.

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

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.

2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

4. In any communication using an interactive electronic medium, such as the Internet

Defendant does not have evidence that average actual earnings are less than the average of consumers' posted rates.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, employees, 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 promoting, offering for sale, or sale of any good or service, are permanently restrained and enjoined from misrepresenting, expressly or by implication that a specified number of jobs is available on the Platform unless all such jobs were posted by Platform users permitted to communicate through the Platform with Platform users who can apply to those postings.

III. REQUIRED DISCLOSURES

offering for sale any product or service with a Negative Option Feature, must provide a simple mechanism for the consumer to cancel the Negative Option Feature, avoid being Charged for the product or service, and immediately stop any subsequent or recurring Charge. Such mechanism must:

- A. Be easy to find;
- B. Be at least as easy to use as the method the consumer used to initiate the Negative Option Feature;
- C. Be provided through the same medium (such as Internet, telephone, mail, or in-person) the consumer used to consent to the Negative Option Feature; and
 - 1. To the extent the consumer consented to the Negative Option Feature through the Internet, Defendant must provide the simple mechanism at all times through the same Internet website or software application the consumer used to consent to the Negative Option Feature, and
 - 2. To the extent the consumer consented to the Negative Option Feature through the telephone, Defendant must provide a toll-free telephone number through which the consumer can cancel, and ensure all calls to this number are answered promptly during normal business hours and are not more costly than the telephone call the consumer used to consent to the Negative Option Feature.

V. JUDGMENT FOR MONETARY RELIEF

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Eight Million Five Hundred Thousand Dollars (\$8,500,000) is entered in favor of the Commission against Defendant, as monetary relief.

B. Defendant is ordered to pay to the Commission Eight Million Five Hundred Thousand Dollars (\$8,500,000), which, as Defendant stipulates, its undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

VI. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

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

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

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendant acknowledges that its Employer Identification Numbers, which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

E. All money received by the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for consumer relief, such as redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially

impracticable or money remains after such redress is completed, the Commission may apply any

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

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

IX. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury. Defendant must:

1. identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant;
2. identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
3. describe the activities of each business, including the goods and services offered, the Earnings Claims and representations of job availability made, type of Negative Option Features offered, disclosures to consumers, and simple mechanisms to cancel;
4. describe in detail whether and how Defendant is in compliance with each Section of this Order; and
5. provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

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

1. designated point of contact; or
2. the structure of 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.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or 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 so r to be s9D01 (r)-2 ()5 (t)-2 ()

X. RECORDKEEPING

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

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints concerning the subject matter of the Order, whether received directly or indirectly, such as through a third party, and any response;
- D. records of all refund requests concerning the subject matter of the Order, received by Defendant's customer service or legal department, directly or indirectly, such as through a third party, and any response;
- E. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;
- F. a copy of each unique advertisement or other marketing material that includes either an Earnings Claim(s) or a representation about the number of jobs or job postings on the Platform;
- G. substantiation for Earnings Claims made since the issuance of this Order;
- H. substantiation for the number of jobs advertised as available;
- I. copies of all versions of cancellation paths or flows utilized since the issuance of this Order; and
- J. all records related to the number of consumers who seek to cancel a Negative

Option Feature on the Platform but either encounter difficulty or fail to do so.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including any failure to transfer any assets as required by this Order:

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UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

FEDERAL TRADE COMMISSION

EDWARD HYNES

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ehynes@ftc.gov; (214) 979-9381

ERICA HILLIARD

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1999 Bryan St., Ste. 2150,

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Date: 8/23/2024

FOR DEFENDANT CARE.COM, INC.:

John J. Butts

Frank Gorman

Brittany R. Warren

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Street

Boston, MA 02109

Counsel for Care.com, Inc.

Date: _____

SO ORDERED this day of _____, 202__.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

FEDERAL TRADE COMMISSION

Date: _____

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FOR DEFENDANT CARE.COM, INC.:



Date: 7/1/2024

