

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FINDINGS

1. This Court has jurisdiction over this matter.
2. The

form of consideration to any Defendant, either directly or indirectly, to (i)

the disclosure must be presented simultaneously in both the visual and audible portions of the

16. “

selling, or assisting in the advertising, marketing, promoting, offering for sale, or sale of any Credit Monitoring Service with a Negative Option Feature.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, their officers, agents, 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, promoting, offering for sale, or sale of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

- A. That a residential property described in an online ad is currently available for rent from someone consumers can contact through that ad;
- B. That a residential property will be shown to consumers who obtain their credit reports or scores from any particular source;
- C. The purpose of any communication with consumers; or
- D. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III. PROHIBITED AFFILIATE PROGRAM ACTIVITIES

IT IS FURTHER ORDERED that Defendants, their officers, agents, 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, promoting, offering for sale, or sale of any good or service through an Affiliate Network or Program that a Defendant owns, operates, or controls, or through an

Affiliate or Affiliate Network to which a Defendant provides or offers to provide any payment or other form of consideration, are permanently restrained and enjoined from failing to:

A. Require each Affiliate and/or Affiliate Network to provide the following identifying information:

1. In the case of a natural person, the Affiliate's or Affiliate Network's first

writing that engaging in acts or practices prohibited by this Order will result in immediate termination of any Affiliate or Affiliate Network and forfeiture of all monies owed to such Affiliate or Affiliate Network; *provided, however*, that if Defendants have access to certain Affiliates only through an Affiliate Network, then Defendants shall contractually require that the Affiliate Network provide the information required by this Subsection to each of those Affiliates and retain proof of the same prior to any such Affiliate being used in any Defendant's Affiliate Program; and if any Defendant should acquire an entity that has an existing program of selling through Affiliates, the entity must complete all steps in this Subsection prior to Defendant's acquisition of the entity.

C. Require that each Affiliate or Affiliate Network, prior to the public use or dissemination to consumers of any marketing materials, including, but not limited to, advertisements, websites, emails, and pop-ups used by any Affiliate or Affiliate Network to advertise, promote, market, offer for sale, or sell any goods or services, provide Defendants with the following information: (a) copies of all marketing materials to be used by the Affiliate or Affiliate Network, including text, graphics, video, audio, and photographs; (b) each location the Affiliate or Affiliate Network maintains, or directly or indirectly controls, where the marketing materials will appear, including the URL of any website; and (c) for hyperlinks contained within the marketing materials, each location to which a consumer will be transferred by clicking on the hyperlink, including the URL of any website. Defendants shall also require each Affiliate or Affiliate Network to maintain and provide to Defendants upon request records of the dates when the marketing materials are publicly used or disseminated to consumers. *Provided, however*, that if Defendants have access to certain Affiliates only through an Affiliate Network, then Defendants shall contractually require that the Affiliate Network obtain and maintain the same

information set forth above from each of those Affiliates who are part of any Defendant's Affiliate Program prior to the public use or dissemination to consumers of any such marketing materials, and provide proof to such Defendant of having obtained the same.

D. Promptly review the marketing materials specified in Subsection C of this Section as necessary to ensure compliance with this Order. Defendants shall also promptly take steps as necessary to ensure that the marketing materials provided to Defendants under Subsection C of this Section are the marketing materials publicly used or disseminated to consumers by the Affiliate or Affiliate Network. If a Defendant determines that use of any marketing materials does not comply with this Order, such Defendant shall inform the Affiliate or Affiliate Network in writing that approval to use such ma

1. Disable any connection between the Defendant's Affiliate Program and the marketing materials used by the Affiliate or Affiliate Network to engage in such acts or practices prohibited by this Order;

2. Halt all payments to the Affiliate or Affiliate Network resulting from such acts or practices prohibited by this Order; and

3. Terminate the Affiliate or Affiliate Network; *provided, however,* Defendants shall not be in violation of this Subsection if Defendants fail to terminate an Affiliate Network in a case where Defendants' only access to an Affiliate who has engaged in acts or practices prohibited by this Order is through an Affiliate Network

4. The name of the seller or provider of the good or service and, if the name of the seller or provider will not appear on billing statements, the billing descriptor that will appear on such statements;

5. A description of the good or service;

6. Any Charge or cost for which the consumer is responsible in connection with the cancellation of an order or the return of a good; and

7. The simple cancellation mechanism to stop any recurring Charges, as required by Section VII of this Order.

C. Failing to send the consumer:

1. Immediately after the consumer's submission of an online order, written confirmation of the transaction by email. The email must Clearly and Conspicuously disclose all the information required by Subsection B of this Section, and contain a subject line reading "Order Confirmation" along with the name of the product or service, and no additional information; or

2. Within 2 days after receipt of the consumer's order by mail or telephone, a written confirmation of the transaction, either by email or first class mail. The email or letter must Clearly and Conspicuously disclose all the information required by Subsection B of this Section. The subject line of the email must Clearly and Conspicuously state "Order Confirmation" along with the name of the product or service, and nothing else. The outside of the envelope must Clearly and Conspicuously state "Order Confirmation" along with the name of the product or service, and no additional information other than the consumer's address, the Defendant's return address, and postage.

VI. OBTAINING EXPRESS INFORMED CONSENT

IT IS FURTHER ORDERED that Defendants, their officers, agents, 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 promoting or offering for sale any good or service with a Negative Option Feature, are permanently restrained and enjoined from using or assisting others in using Billing Information to obtain payment from a consumer, unless Defendant first obtains the express informed consent of the consumer to do so. To obtain express informed consent, Defendants must:

A. For all written offers (including over the Internet or other web-based applications or services), obtain consent through a check box, signature, or other substantially similar method, which the consumer must affirmatively select or sign to accept the Negative Option Feature, and no other portion of the offer. Defendant shall disclose Clearly and Conspicuously, and in Close Proximity to such check box, signature, or substantially similar method of affirmative consent, only the following, with no additional information:

1. The extent to which a consumer must take affirmative action(s) to avoid any Charges: a) for the offered good or service, b) of an increased amount after the trial or promotional period ends, and c) on a recurring basis;

2. The total cost (or range of costs) the consumer will be Charged and, if applicable, the frequency of such Charges unless the consumer timely takes affirmative steps to prevent or stop such Charges; and

3. The deadline(s) (by date or frequency) by which the consumer must affirmatively act in order to stop all recurring Charges.

B. For all oral offers, prior to obtaining any Billing Information from the consumer:

3. Program-length television, radio, or Internet-hosted multimedia advertisement disclosures shall be made at the beginning, near the middle, and at the end of the advertisement; and

4. If the locator address AnnualCreditReport.com or toll-free telephone number (877) 322-8228 authorized under federal law changes in the future, the new address or telephone number shall be substituted in the disclosures required by this Section within a reasonable time.

B. Medium-specific disclosures: All offers of Free Credit Reports shall include the disclosures required by this Section:

1. Television advertisements: All advertisements for Free Credit Reports broadcast on television shall include the following disclosure in Close Proximity to the first mention of a free credit report: “This is not the free credit report provided for by Federal law.” The visual disclosure shall be at least four percent of the vertical picture height and appear for a minimum of four seconds.

2. Radio advertisements: All advertisements for Free Credit Reports broadcast on radio shall include the following disclosure in Close Proximity to the first mention of a free credit report: “This is not the free credit report provided for by Federal law.”

3. Print advertisements: All advertisements for Free Credit Reports in print shall include the following disclosure in the form specified below and in Close Proximity to the first mention of a free credit report. The first line of the disclosure shall be centered and contain only the following language: “THIS NOTICE IS REQUIRED BY LAW.” Immediately below the first line of the disclosure the following language shall appear: “You have the right to a free credit report from AnnualCreditReport.com or (877) 322-8228, the ONLY authorized source

under Federal law.” Each letter of the disclosure text shall be, at minimum, one-half the size of the largest character used in the advertisement.

4. Websites: Any website offering Free Credit Reports must display the disclosure set forth in Subsections B.4.a, B.4.b, and B.4.e of this Section on each page that mentions a free credit report and on each page of the ordering process. This disclosure shall be visible across the top of each page where the disclosure is required to appear; shall appear inside a box; and shall appear in the form specified below:

a. The first element of the disclosure shall be a header that is centered and shall consist of the following text: “THIS NOTICE IS REQUIRED BY LAW. Read more at consumerfinance.gov/learnmore.” Each letter of the header shall be one-half the size of the largest character of the disclosure text required by Subsection B.4.b of this Section. The ind shall consist of the flowing text: “T l

d. The background of the box shall be a solid color in a high degree of contrast from the background of the page and the color shall not appear elsewhere on the page;

e. The third element of the disclosure shall appear below the text required by Subsection B.4.b of this Section and shall be an operational hyperlink to AnnualCreditReport.com that appears as a centered button containing the following language: “Take me to the authorized source.” The background of this button shall be the same color as the hyperlinks required by Subsections B.4.a and B.4.b of this Section and the text shall be in a high degree of contrast to the background of the button;

f. Each character of the text required in Subsections B.4.b and B.4.e of this Section shall be, at minimum, the same size as the largest character on the page, including characters in an image or graphic banner;

g. Each character of the disclosure shall be displayed as plain text and in a sans serif font, such as Arial; and

h. The space between each element of the disclosure required in Subsections B.4.a, B.4.b, and B.4.e of this Section shall be, at minimum, the same size as the largest character on the page, including characters in an image or graphic banner. The space between the boundaries of the box and the text or button required in Subsections B.4.a, B.4.b, and B.4.e of this Section shall be, at minimum, twice the size of the vertical height of the largest character on the page, including

6. Internet-hosted multimedia advertising

IX. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A.

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. Defendants represent that they have provided this redress information to the Commission. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within 14 days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promoting, offering for sale, or sale of Credit Monitoring Services; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 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 law, regulation, or court order.

XII. COMPLETION OF RECEIVERSHIP

IT IS FURTHER ORDERED that the appointment of the Receiver pursuant to the Preliminary Injunction is hereby continued in full force and effect as modified by this Section.

A. The Receiver is directed and authorized to accomplish the following within 90 days after entry of this Order, but any party or the Receiver may request that the Court extend the Receiver's term for good cause:

and representatives who participate in conduct related to the subject matter of the Order; and (3)

numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which Individual Defendant performs services whether as an employee or otherwise and any entity in which Individual Defendant has any ownership interest; and (c) describe in detail Individual Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership;

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 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 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 Individual Defendant performs services whether as an employee or otherwise and any entity in which Individual Defendant has any ownership interest, and identify the name, physical address, and any 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 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 the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Credit Bureau Center, LLC, et al.*, FTC Matter No. X170014.

XV. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendant and Individual Defendant for any business that Individual Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel recor

D. Records of all consumer complaints and refund requests, whether received 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. Copies of all marketing materials, documents, and information received pursuant to Subsection III.C of this Order; and all written approvals or denials of marketing materials made pursuant to Subsection III.D of this Order; and

G. A copy of each unique advertisement or other marketing material.

XVI. COMPLIANCE MONITORING

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

A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any

individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Individual Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XVII. RETENTION OF JURISDICTION

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

SO ORDERED this 26th day of June, 2018.

