IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action No. AMD 06CV1099**
	)	
INFORMATION SEARCH, INC.,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND SETTLEMENT OF MONETARY CLAIMS

Plaintiff, Federal Trade Commission ("FTC"), has filed its complaint for permanent injunction and other relief pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), charging Defendants with violating Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The FTC and Defendants Information Search, Inc. and David J. Kacala, having been represented by counsel and, acting by and through such counsel, have agreed to the entry of this Stipulated Final Order for Permanent Injunction and Settlement of Monetary Claims ("Order") by this Court to resolve all matters of dispute between the FTC and Defendants with respect to the conduct alleged in the complaint in this action.

FINDINGS

By stipulation of the parties, the Court finds as follows:

1. The FTC has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.

2. This Court has jurisdiction of the subject matter of this case and has jurisdiction over Defendants. Venue in the District of Maryland is proper, and the Complaint states a claim upon which relief may be granted against Defendants.

3. The activities of Defendants are in or affecting commerce, as defined in the FTC Act, 15 U.S.C. § 44.

4. Defendants waive all rights that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each party shall bear its own costs and attorneys' fees. Defendants also waive all rights to seek judicial review of, or otherwise challenge or contest the validity of, this Order.

5. By entering into this Order, Defendants do not admit to the allegations set forth in the Complaint, other than the jurisdictional facts, and Defendants' consent to entry of this Order shall not be interpreted to constitute an admission by them that they have engaged in any violations of any law or regulations.

6. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

7. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. "Defendants" means Information Search, Inc. and David J. Kacala, individually and as an officer of Information Search, Inc.

2. "Customer phone records" means (a) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available

to the carrier by the customer solely by virtue of the carrier-customer relationship; and (b) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier, which includes, but is not limited to, telephone call detail records.

3. "Consumer personal information" means any individually identifiable information concerning a consumer, including, but not limited to: (a) an unpublished or unlisted wire line or wireless phone number; (b) an unpublished or unlisted physical or mailing address, including street name and name of city or town, Post Office Box number, or Private Mailbox number; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual's email address; (d) a Social Security number in whole or in part; (e) credit and/or debit card information, including credit and/or debit card number, expiration date, data stored on the magnetic stripe of a credit or debit card, and transaction detail records; (f) bank account information or transaction records including the ABA routing number, account number, check number, and transaction detail records; (g) a driver's license number; or (h) any other information from or about an individual consumer that is combined with (a) through (g) above.

ORDER

BAN ON SALE OF CUSTOMER PHONE RECORDS

I. IT IS THEREFORE ORDERED that Defendants, their assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from obtaining, causing others to obtain, marketing, or selling customer phone records and consumer personal information that is derived from customer phone records; *provided, however,*

that Defendants shall not be prohibited from obtaining customer phone records or consumer personal information that is derived from customer phone records pursuant to any law, regulation, or lawful court order. Nothing in this Order shall be read as an exception to this Section I.

PROHIBITED BUSINESS ACTIVITIES

II. IT IS FURTHER ORDERED that Defendants, their assigns, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the obtaining, marketing, or sale of any consumer personal information, unless otherwise authorized pursuant to any law, regulation, or lawful court order, are hereby restrained and enjoined from:

A. Making false or deceptive statements or representations, including but not limited to impersonating any person or entity, directly or by implication, to any person or entity in order to obtain consumer personal information;

B. Requesting any person or entity to obtain consumer personal information relating to any third person, if the person making such a request knows or should know that the person or entity to whom such a request is made will obtain or attempt to obtain such information in violation of Subsection A of this Section II.

MONETARY RELIEF

III. IT IS FURTHER ORDERED that:

A. Judgment is hereby entered against Defendants, jointly and severally, in the amount of FORTY THOUSAND AND SEVENTY FIVE DOLLARS ($40,075.00); provided, however, that this judgment shall be suspended (1) upon payment to the FTC, within five (5) days after Defendants receive notice of entry of this Order, of THREE THOUSAND DOLLARS

($3,000.00) in the form of a certified cashier's check made payable to the FTC or its designated agent; and (2) as long as the Court makes no finding, as provided in Section IV of this Order, that either Defendant materially misrepresented or omitted the nature, existence, or value of any asset.

B. Any funds received by the FTC pursuant to this Section III shall be deposited into a fund administered by the FTC or its agent to be used for such equitable relief, including but not limited to consumer information remedies and disgorgement to the U.S. Treasury of ill-gotten monies, as the FTC determines to be reasonably related to Defendants' practices alleged in the Complaint. Defendants shall have no right to challenge the FTC's choice of remedies under this Section III.

C Defendants further agree that the facts as alleged in the Complaint shall be taken as true in the event of any subsequent litigation to collect amounts due pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy proceeding.

D. The judgment entered pursuant to this Section III is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment, or forfeiture.

E. Defendants acknowledge and agree that any money paid pursuant to this Order is irrevocably paid to the FTC for purposes of settlement between the FTC and Defendants, and Defendants relinquish all rights, title, and interest to such money.

F. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the FTC their tax identification numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

RIGHT TO REOPEN

IV. IT IS FURTHER ORDERED that the FTC's agreement to this Order is expressly premised on the truthfulness, accuracy and completeness of financial statements previously submitted by Defendants to the FTC. If, upon motion by the FTC, the Court finds that the financial statement of either Defendant contains any material misrepresentation or omission, the suspended judgment entered in Section III of this Order shall become immediately due and payable as to that Defendant (less any amounts turned over to the FTC pursuant to Section III.A. of this Order); provided, however, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and provided further, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Order. For purposes of this Section IV, Defendants waive any right to contest any of the allegations in the Complaint.

COOPERATION WITH FTC

V. IT IS FURTHER ORDERED that Defendant David J. Kacala shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant David J. Kacala shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

DISTRIBUTION OF ORDER

VI. IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants shall deliver copies of the Order as directed below:

A. Defendant Information Search, Inc., must deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant Information Search, Inc., also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. For any business that Defendant David J. Kacala controls, directly or indirectly, or in which he has a majority ownership interest, Defendant David J. Kacala must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant David J. Kacala must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. For any business where Defendant David J. Kacala is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Defendant David J. Kacala must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section VI.

RECORD-KEEPING PROVISIONS

VII. IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, each Defendant, in connection with any business where (1) such Defendant is the majority owner or otherwise controls, directly or indirectly, the business and (2) the business is engaged in or assists others engaged in the obtaining, advertising, promoting, marketing, offering for sale, sale, or distribution of consumer personal information, and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of goods or services purchased, and description of goods or services purchased, including information regarding the individual consumer whose personal information is being purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements (including websites), or other marketing materials, and records that accurately reflect the time periods during which such materials were used and the persons and business entities that used such materials;

F. To the extent consumer personal information is obtained through the use of third parties:

1. Records that accurately reflect the name, address, and telephone number of the third party;

2. Copies of all contracts and correspondence between either Defendant and such third party; and

G. Copies of each acknowledgement of receipt of Order required to be obtained pursuant to Section VI of this Order.

COMPLIANCE REPORTING

VIII. IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order,

1. Defendant David J. Kacala shall notify the FTC of the following:

a. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in his employment status (including self-employment), and any change in his ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, creates or forms, or performs services for; a statement of the

nature of the business; and a statement of his duties and responsibilities in connection with the business or employment; and

c. Any changes in his name or use of any aliases or fictitious names; and

2. Defendants shall notify the FTC of any changes in corporate structure of Information Search, Inc., or any business entity that David J. Kacala directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the FTC as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendants each shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For Defendant David J. Kacala:

a. The then-current residence address, mailing addresses, and telephone numbers of Defendant David J. Kacala;

b. The then-current employment and business addresses and telephone numbers of Defendant David J. Kacala, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant David J. Kacala, for each such employer or business; and

c. Any other changes required to be reported under subparagraph A of this Section VIII.

2. For all Defendants:

a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section VI;

b. Any other changes required to be reported under subparagraph A of this Section VIII.

C. For the purposes of this Order, Defendants shall, unless otherwise directed by the FTC's authorized representatives, mail all written notifications to the FTC to:

Associate Director of Enforcement
Federal Trade Commission
600 Pennsylvania Avenue NW,
Room NJ2122
Washington, DC 20580
Re: FTC v. Information Search, Inc., et al.

D. For purposes of the compliance reporting and monitoring required by this Order, the FTC is authorized to communicate directly with Defendants.

COMPLIANCE MONITORING

IX. IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten (10) days of receipt of written notice from a representative of the FTC, Defendants each shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the FTC is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

2. Posing as consumers and suppliers to: Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by either Defendant, without the necessity of identification or prior notice; and

C. Defendants shall permit representatives of the FTC to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

ACKNOWLEDGMENT OF RECEIPT OF ORDER

X. **IT IS FURTHER ORDERED** that within five (5) business days after receipt of this Order, as entered by the Court, each Defendant shall submit to the FTC a truthful sworn statement acknowledging receipt of this Order.

RETENTION OF JURISDICTION

XI. **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter, for purposes of construction, modification, and enforcement of this Order.

STIPULATED AND AGREED TO BY:

Information Search, Inc.
INFORMATION SEARCH, INC., Defendant

DAVID J. KACALA, Defendant

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Attorneys for Plaintiff

IT IS SO ORDERED, this _____ day of _____, 2007.

ANDRE M. DAVIS
UNITED STATES DISTRICT JUDGE