
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

COMPLETE MERCHANT
SOLUTIONS, LLC,
a Utah Limited Liability Company;

and

JACK WILSON, individually and as a
former officer of Complete Merchant
Solutions, LLC,

Defendants.

**MEMORANDUM DECISION
AND ORDER
GRANTING JOINT MOTION FOR
APPROVAL AND ENTRY OF
STIPULATED PERMANENT
INJUNCTION AND MONETARY
JUDGMENT**

Case No. 2:20-CR-00864-HCN

Howard C. Nielson, Jr.
United States District Judge

Plaintiff, the Federal Trade Commission (“FTC” or the “Commission”), has filed a Complaint for Permanent Injunction and Other Equitable Relief against Defendants Complete Merchant Solutions, LLC, and Jack Wilson pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendants jointly move the court to approve and enter a stipulated order for permanent injunction and monetary judgment that will resolve all matters in dispute in this action between them.

Based on its review of the complaint, the motion, and the proposed stipulated order, and for good cause appearing, the court finds that the proposed order is fair, reasonable, and consistent with the public interest. *See Metropolitan Housing Development Corp. v. Village of Arlington Heights*, 616 F.2d 1006, 1014–15 (7th Cir. 1980). The court further finds that the proposed order “spring[s] from and serve[s] to resolve a dispute within the court’s subject-matter jurisdiction” and “com[es] within the general scope of the case made by the pleadings.” *Local*

No. 93, Int'l Assoc. of Firefighters v. City of Cleveland, 478 U.S. 501, 525 (1986) (citation and internal quotation marks omitted). Finally, the court finds that the proposed order does not “conflict[] with or violate[] the [law] upon which the complaint was based” but instead “further[s] the objectives” of that law. *Id.* at 525–26. The court therefore **GRANTS** the joint motion for approval and entry of the stipulated order for permanent injunction and monetary relief.

ADDITIONAL FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a), by processing or arranging for processing of charges to consumers’ credit and debit cards on behalf of Defendants’ Clients.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they 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 agree to bear their own costs and attorney fees.
5. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.
6. Defendant Complete Merchant Solutions, LLC has voluntarily dismissed with prejudice its Complaint for Declaratory and Injunctive Relief in *Complete Merchant Solutions, LLC v. Federal Trade Commission*, Case No. 2:19-cv-00963-CMR (D. Utah).

7. Plaintiff Federal Trade Commission has voluntarily dismissed with prejudice its Petition to Enforce Civil Investigative Demand in *Federal Trade Commission v. Complete Merchant Solutions, LLC*, Case 2:19-cv-00996-HCN (D. Utah).

DEFINITIONS

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

1. “**Acquirer**” means a business organization, Financial Institution, or an agent of a business organization or Financial Institution that has authority from an organization that operates or licenses a credit card system (e.g., VISA, Inc., Mastercard Inc., American Express Company, and Discover Financial Services, Inc.) to authorize Merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.
2. “**Billing Information**” means any data that enables any person to access a customer's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card.
3. “**Business Coaching**” means any good or service represented to enable or assist consumers in obtaining training or education on how to establish a business or earn money or other consideration through a business.
4. “**Charge**,” “**Charged**,” or “**Charging**” means any attempt to collect money or other consideration from a consumer, including causing Billing Information to be submitted for payment, including against the consumer’s credit card, debit card, bank account, telephone bill, or other account.
5. “**Chargeback Rate**” means the proportion (expressed as a percentage) of chargebacks out of the total number of credit or debit card sales transactions.

6. “**Chargeback**” means a procedure whereby an issuing bank or other Financial Institution charges all or part of an amount of a Person’s credit or debit card transaction back to the acquiring or merchant bank.

7. “**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:

a. 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.

b. 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.

c. 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.

d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

e. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

h. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

8. “**Client**” means any Person (a) who obtains a Merchant Account, or (b) to whom any Defendant provides any ISO Services or acts as a Sales Agent.

9. “**CMS**” means Complete Merchant Solutions, LLC and its successors and assigns.

10. “**Covered Client**” means any Client who:

a. offers to sell, sells, promotes, or markets, the following goods or services:
Business Coaching; computer technical support services; cryptocurrency; foreclosure protection or guarantees; nutraceuticals with a Negative Option Feature; lottery sales or sweepstakes; medical discount benefits packages including discount medical cards; obtaining employment for an upfront fee; obtaining government grants or other such government income, benefits, or scholarships; penny auctions; real estate seminars and training programs; or

b. engages in Outbound Telemarketing.

11. “**Credit Card Laundering**” means:

a. Presenting or depositing into, or causing or allowing another to present or deposit into, the credit card system for payment, a Credit Card Sales Draft generated by a transaction that is not the result of a credit card transaction between the cardholder and the Merchant;

b. Employing, soliciting, or otherwise causing or allowing a Merchant, or an employee, representative, or agent of a Merchant, to present to or deposit into the credit card system for payment, a Credit Card Sales Draft generated by a transaction that is not the result of a credit card transaction between the cardholder and the Merchant; or

c. Obtaining access to the credit card system through the use of a business relationship or an affiliation with a Merchant, when such access is not authorized by the Merchant Account agreement or the applicable credit card system.

12. **“Credit Card Sales Draft”** means any record or evidence of a credit card transaction.

13. **“Defendants”** means Jack Wilson and CMS, individually, collectively, or in any combination.

14. **“Financial Institution”** means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843(k)). An institution that is significantly engaged in financial activities is a Financial Institution.

15. **“Free Trial Feature”** means any product, service, or program that is:

- a. Sold with a Negative Option Feature; and
- b. That is advertised, marketed, promoted, or offered for sale as either “free,” “risk-free,” a “trial,” a “sample,” a “bonus,” a “gift,” “no obligation,” or using any other words, depictions, or illustrations that denote or imply the absence of an obligation on the part of the recipient of the offer to affirmatively act in order to avoid Charges.

16. **“Independent Sales Organization”** or **“ISO”** means any Person that (a) enters into an agreement or contract with a Payment Processor, Acquirer or Financial Institution to sell or market Payment Processing services to a Merchant; (b) matches, arranges for, or refers Merchants to a Payment Processor or Acquirer for Payment Processing services, or that matches, arranges for, or refers a Payment Processor or Acquirer to Merchants for Payment Processing services; or (c) is registered as an ISO or merchant service provider (“MSP”) with VISA, Mastercard, or any credit card association.

17. **“ISO Services”** means any services an ISO performs in its capacity as an ISO, including: (a) arranging for, and/or referring Merchants to a Payment Processor or Acquirer for Payment Processing services, (b) matching, arranging for, and/or referring a Payment Processor or Acquirer to Merchants for Payment Processing services; and (c) screening and monitoring such Merchants.
18. **“Merchant”** means any Person engaged in the sale or marketing of any goods or services or a charitable contribution, including any Person who applies for ISO Services or Payment Processing services.
19. **“Merchant Account”** means any account with an Acquirer or other Financial Institution, service provider, Payment Processor, ISO, or other entity that enables an individual, a business, or other organization to accept payments of any kind.
20. **“Negative Option Feature”** means, in an offer or agreement to sell or provide any good or service, a provision under which the consumer’s silence or failure to take affirmative action to reject a good or service or to cancel the agreement is interpreted by the seller or provider as acceptance or continuing acceptance of the offer.
21. **“Outbound Telemarketing”** means any plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves a telephone call initiated by a Person other than the consumer.
22. **“Payment Processing”** means providing a Person, directly or indirectly, with the means used to charge or debit accounts through the use of any payment mechanism, including, but not limited to, credit, prepaid, or stored value cards. Whether accomplished through the use of software or otherwise, Payment Processing includes, among other things: (a) reviewing and approving Merchant applications for payment processing services; (b) providing the means to transmit sales transaction data from Merchants to Acquirers or other Financial Institutions; (c)

clearing, settling, or distributing proceeds of sales transactions from Acquirers or Financial Institutions to Merchants; or (d) processing Chargebacks.

23. **“Payment Processor”** means any Person providing Payment Processing services in connection with another Person’s sale of goods or services, or in connection with any charitable donation.

24. **“Person”** means any natural person or any entity, corporation, partnership, or association of persons.

25. **“Sales Agent”** means a Person that, in exchange for monetary consideration, matches, arranges, or refers prospective Clients or Clients to a Payment Processor or ISO for Payment Processing or ISO Services, but does not hold any contractual liability in the event of losses related to the Payment Processing activities conducted by or on behalf of Clients. As such, a Sales Agent may be involved in recommending a particular Payment Processor or ISO to a prospective Client, forwarding to the Payment Processor or ISO a prospective Client’s or Client’s merchant application, or negotiating rates and fees charged by a Payment Processor or ISO, but a Sales Agent may not be involved in any Payment Processing and may not act as an ISO.

26. **“Shell Company”** means an entity with (1) no or nominal operations; and (2) either no or nominal assets, assets consisting solely of cash and cash equivalents, or assets consisting of any amount of cash and cash equivalents and nominal other assets.

ORDER

I.

BAN ON PROCESSING FOR NUTRACEUTICALS WITH A FREE TRIAL FEATURE

IT IS ORDERED that Defendants, whether acting directly or through an intermediary, are hereby permanently restrained and enjoined from providing ISO Services or acting as a Sales

Agent for any Person engaged in offering to sell, selling, promoting or marketing nutraceuticals with a Free Trial Feature.

II.

PROHIBITION ON CREDIT CARD LAUNDERING

IT IS FURTHER ORDERED that Defendants, Defendants' 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 a Merchant Account are permanently restrained and enjoined from Credit Card Laundering.

III.

PROHIBITIONS RELATED TO MERCHANT ACCOUNTS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, 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, are permanently restrained and enjoined from:

- A. Making, or assisting others in making, directly or by implication, any false or misleading statement in order to obtain Payment Processing services; and
- B. Engaging in any tactics to avoid fraud and risk monitoring programs established by any Financial Institution, Acquirer, or the operators of any payment system, except for the use of tools to detect and/or prevent fraud perpetrated on Merchants, including, but not limited to, balancing or distributing sales transaction volume or sales transaction activity among multiple Merchant Accounts or merchant billing descriptors where a purpose of such balancing is to avoid fraud and risk management programs; or using a Shell Company to apply for an additional Merchant Account.

IV.

PROHIBITION AGAINST ASSISTING AND FACILITATING

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, 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, are permanently restrained and enjoined from providing substantial assistance or support to any Person that they know, or consciously avoid knowing, is engaged in:

- A. Misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of any goods or services;
- B. Misrepresenting, directly or by implication, any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policies;
- C. The unauthorized debiting or charging of consumer bank or credit card accounts;
or
- D. Any deceptive, unfair, or abusive act or practice prohibited by the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310.

V.

SCREENING OF PROSPECTIVE COVERED CLIENTS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, 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, are permanently restrained and enjoined from providing ISO Services or acting as Sales Agent for any prospective Covered Client without first engaging in a reasonable screening of the prospective Covered Client to determine whether the prospective Covered Client's business

practices are, or are likely to be, deceptive or unfair within the meaning of Section 5 of the FTC Act, or violation of the TSR. Such reasonable screening shall include, but not be limited to:

A. Obtaining from each prospective Covered Client:

1. A description of the nature of the prospective Covered Client's business, including describing the nature of the goods and services sold and methods of sale, for which the prospective Covered Client seeks Payment Processing services;
2. The name of the principal(s) and controlling Person(s) of the entity, and Person(s) with a majority ownership interest in the entity;
3. A list of all business and trade names, fictitious names, DBAs, and Internet websites under or through which the prospective Covered Client has marketed in the past two (2) years or intends to market the goods and services for which the prospective Covered Client seeks Payment Processing services;
4. Each physical address at which the prospective Covered Client has conducted business in the past year or will conduct the business(es) identified pursuant to subsection (1) of this Section V.A;
5. The name of every Acquirer and Payment Processor used by the prospective Covered Client during the preceding year;
6. The prospective Covered Client's past Chargeback Rate for the preceding six (6) months, and estimates of future Chargeback Rates; and
7. Whether the prospective Covered Client, including the principal(s) and controlling Person(s) of the entity, any Person(s) with a majority ownership interest in the entity, and any corporate name, trade name, fictitious name or aliases under which such Person(s) conduct or have conducted business, has ever been:

- i. placed in a payment card association's chargeback monitoring program; or
- ii. the subject of a complaint filed by the Commission or any other state or federal law enforcement agency;

B. Taking reasonable steps to assess the accuracy of the information provided pursuant to Section V.A of this Order, including: reviewing the Internet websites used by the prospective Covered Client to market its goods or services; reviewing search engine hits related to the prospective Covered Client, its principal(s) and controlling Person(s), and Person(s) with a majority ownership interest in the entity; reviewing online consumer complaints and complaints maintained by the Better Business Bureau related to the prospective Covered Client; obtaining and reviewing copies of monthly Payment Processing statements issued by any bank, ISO, Sales Agent, Acquirer, or Payment Processor used by the Covered Client during the preceding six (6) months; and obtaining and reviewing a representative sample of current marketing materials for each good or service related to the offer for which Defendants would provide the prospective Covered Client with ISO Services or Sales Agent services. The purpose of such steps is to determine whether the prospective Covered Client is engaged in any of the following acts or practices:

1. Failing to Clearly and Conspicuously disclose all products and services that are sold in conjunction with the offered product or service;
2. Misrepresenting the total cost to purchase, receive, or use, any products or services that are the subject of the sales offer;
3. Misrepresenting any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of the sales offer;

4. Failing to Clearly and Conspicuously disclose all material terms and conditions of an offer;
5. Misrepresenting, expressly or by implication, any material aspect of the prospective Covered Client's refund, cancellation, exchange, or repurchase policies;
6. Causing billing information to be submitted for payment without the customer's express authorization.

If Defendants become aware that the prospective Covered Client is, or may be engaged in, any of the above acts or practices, Defendants shall immediately notify the prospective Covered Client of such act(s) or practice(s). Defendants shall not provide ISO Services or act as a Sales Agent for the prospective Covered Client unless and until the prospective Covered Client rectifies such act(s) or practice(s).

VI.

MONITORING OF COVERED CLIENTS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, 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 providing ISO Services, are permanently restrained and enjoined from:

- A. Failing to complete the reasonable screening process described in Section V of the Order within a reasonable time period (not to exceed three (3) months) for any current Client CMS knows or has reason to know is a Covered Client;
- B. Failing to monitor each Covered Client's known transactions to determine whether the Covered Client is engaged in practices that are deceptive or unfair in violation of Section 5 of the FTC Act. Such monitoring shall include, but not be limited to, regularly reviewing Covered Clients' Internet websites including from an IP address that is not associated

with Defendants, regularly reviewing each Covered Client's Chargeback Rates, and reasons provided for these rates, as well as examining any unusual or suspect transaction patterns, values, and volume;

C. Failing to calculate and update at least on a monthly basis for each Covered Client the Chargeback Rate. For any Covered Client with multiple processing accounts, the calculation of the Chargeback Rate shall be made for each of the Covered Client's individual processing accounts with Defendants, and in the aggregate for all accounts processed by Defendant for each Covered Client;

D. Failing to immediately conduct a reasonable investigation of the cause of the Chargeback Rates for any Covered Client whose monthly Chargeback Rate exceeds one percent (1%) and whose total number of chargebacks exceeds fifty-five (55) in two of the past six months.

1. Reasonable investigation as defined in this section includes, but is not limited to: verifying and updating the truth and accuracy of information gathered in compliance with Section V of this Order and any other advertising of the Covered Client; reviewing publicly-available information maintained by the Better Business Bureau related to the Covered Client, including complaints and other relevant information regarding the Covered Client; reviewing from an IP address that is not associated with Defendants the Internet websites used by the Covered Client to market its goods and services; searching publicly available sources for legal actions taken by the Commission or other state or federal law enforcement agencies against the Covered Client; and conducting "test" shopping to determine the Covered Client's sales practices, where possible;

2. Within 60 days of commencing the investigation, Defendants shall stop providing ISO Services for any investigated Covered Client unless Defendants draft a written

report establishing facts that demonstrate that Defendants do not have reason to believe that the Covered Client's business practices related to the offer(s) for which Defendants provide ISO Services are deceptive or unfair in violation of Section 5 of the FTC Act or in violation of the FTC's TSR.

E. Failing to immediately stop processing sales transactions and close all processing accounts for any Covered Client that Defendants know or should know is engaged in tactics to avoid fraud and risk monitoring programs established by any Financial Institution, Acquirer, or the operators of any payment system, including, but not limited to, balancing or distributing sales transaction volume or sales transaction activity among multiple Merchant Accounts or merchant billing descriptors for the purposes of avoiding any rules or regulations of the credit card networks;, or using Shell Companies to apply for additional Merchant Accounts.

VII.

ADDITIONAL MONITORING OF NUTRACEUTICAL CLIENTS WITH A NEGATIVE OPTION FEATURE

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, 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 providing ISO Services, are permanently restrained and enjoined from:

A. Failing to conduct a review, at least every three (3) months, of each nutraceutical Client with a Negative Option Feature. Such a review shall ensure that each nutraceutical Client with a Negative Option Feature:

1. Does not obtain Billing Information from a consumer without first disclosing Clearly and Conspicuously, and immediately adjacent to where a consumer provides Billing Information:

- i. The extent to which the consumer must take affirmative action to avoid any Charges: a) for the offered good or service, and b) on a recurring basis;
 - ii. The total cost (or range of costs) the consumer will be Charged, the date the initial Charge will be submitted for payment, and, if applicable, the frequency of such Charges unless the consumer timely takes affirmative steps to prevent or stop such Charges;
 - iii. The deadline(s) (by date or frequency) by which the consumer must affirmatively act in order to stop all recurring Charges;
 - iv. 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;
 - v. A description of the good or service;
 - vi. Any Charge or cost for which the consumer is responsible in connection with the cancellation of an order, any service or the return of any good;
 - vii. The simple cancellation mechanism to stop any recurring Charges, as required by this Order.
2. Sends to the consumer:
- i. 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 VII.A.1, and contain a subject line beginning "Order Confirmation" along with the name of the good. Alternatively, it can

begin “You are being Charged \$” or with another phrase that the sender can prove conveys substantially the same message to the consumer; or

- ii. Within two (2) days after receipt of the consumer’s order by mail or telephone, a written confirmation of the transaction, either by email (as prescribed by the preceding subsection) or first class mail. A mailed letter must Clearly and Conspicuously disclose all the information required by Subsection VII.A.1. The outside of the envelope must Clearly and Conspicuously disclose “Order Confirmation” along with the name of the good or service. Alternatively, the disclosure can state “You are being charged \$” or another phrase that the sender can prove conveys substantially the same message to the consumer. The outside of the envelope must display no additional information other than the consumer’s address, the Client’s return address, and postage. The envelope must not contain any other contents.

3. Does not use Billing Information to obtain payment from a consumer, unless such Client first obtains the express informed consent of the consumer to do so. To obtain express informed consent, such Client must:

- i. For all written offers (including over the Internet, such as through a web-based application), 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. Such Client shall disclose

Clearly and Conspicuously, and immediately adjacent to such check box, signature, or substantially similar method of affirmative consent, only the following, with no additional information:

- a. The extent to which the consumer must take affirmative action to avoid any Charges: a) for the offered good or service, and b) on a recurring basis;
- b. 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
- c. The deadline(s) (by date or frequency) by which the consumer must affirmatively act in order to stop all recurring Charges.

4. Provide a simple mechanism for the consumer to: (1) avoid being Charged, or Charged an increased amount, and (2) immediately stop any recurring Charges. Such mechanism must not be difficult, costly, confusing, or time consuming, and must be at least as simple as the mechanism the consumer used to initiate the Charge(s).

B. Failing to immediately stop processing sales transactions and close all processing accounts for any nutraceutical Client with a Negative Option Feature that Defendants know or should know is not complying with Subsection IIV.A.1-4.

VIII.

MONETARY JUDGMENT

A. Judgment in the amount of \$1,500,000 is entered in favor of the Commission against the Defendants, jointly and severally.

B. Defendants are ordered to pay to the Commission \$1,500,000. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

IX.

ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendants relinquish 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. Defendants acknowledge that the Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted 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 paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer 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 redress is completed, the Commission may apply any

remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Jack Wilson has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

X.

CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants are permanently restrained and enjoined from directly or indirectly failing to provide consumer information in their control sufficient to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, which Defendants then have within its possession, Defendants must provide it, in the form prescribed by the Commission, within 14 days.

XI.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

- A. Defendants, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For five (5) years after entry of this Order, Defendants, for any business that Defendants, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC members and managers; (2) all employees and Sales Agents who participate in taking applications from Merchants for new Merchant Accounts, those involved in

underwriting, monitoring, or risk management of Merchant Accounts, and all sales employees; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (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 Defendants delivered a copy of this Order, Defendants must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XII.

COMPLIANCE REPORTING

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

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

1. Each Defendant must: (a) 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; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Jack Wilson must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

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

B. For ten (10) years following entry of this Order, Defendants 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 CMS 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, Jack Wilson 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 such Defendant performs services whether as an employee or otherwise and any entity in which such 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. Complete Merchant Solutions, Matter No. 1723020.

XIII.

RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, CMS, in connection with ISO Services, and Jack Wilson, for any business that such Defendant, individually or collectively with any other Defendants, 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 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 and refund requests, whether received directly or indirectly, relating to Merchants’ transactions processed while Defendants provide ISO Services to such Merchants, and any response; and

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

XIV.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order and 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 Jack Wilson, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XV.

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.

IT IS SO ORDERED.

DATED this 11th day of December, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Howard C. Nielson, Jr.", written over a solid horizontal line.

Howard C. Nielson, Jr.
United States District Judge