

1 CHAD A. READLER  
 2 Acting Assistant Attorney General  
 Civil Division  
 3 U.S. Department of Justice  
 ETHAN DAVIS  
 4 Deputy Assistant Attorney General  
 GUSTAV W. EYLER  
 5 Acting Director, Consumer Protection Branch  
 KATHRYN A. SCHMIDT  
 6 Trial Attorney, Consumer Protection Branch  
 7 P.O. Box 386  
 8 Washington, DC 20044  
 Phone: (202) 598-8697  
 9 Email: Kathryn.A.Schmidt@usdoj.gov

10 *Attorneys for Plaintiff United States of America*

11 MATTHEW H. WERNZ  
 12 SAMUEL A.A. LEVINE  
 Federal Trade Commission  
 13 Midwest Region  
 14 230 South Dearborn Street, Suite 3030  
 Chicago, IL 60604  
 15 Tel.: (312) 960-5634  
 Email: MWernz@ftc.gov  
 16 Email: SLevine1@ftc.gov

17 *Attorneys for the Federal Trade Commission*

18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20  
 21 UNITED STATES OF AMERICA,  
 22 Plaintiff,  
 23  
 v.  
 24 PRIME SITES, INC., a Nevada corporation,  
 25 also doing business as EXPLORE TALENT,  
 26 Defendant.

Case No. 2:18-cv-199

**STIPULATION AND  
ORDER FOR PERMANENT  
INJUNCTION AND CIVIL PENALTY  
JUDGMENT**

ECF No. 2

1 Plaintiff, the United States of America, acting upon notification and authorization to the  
2 Attorney General by the Federal Trade Commission (“Commission”), filed its Complaint for  
3 Permanent Injunction, Civil Penalties, and Other Relief (“Complaint”) in this matter, pursuant to  
4 Sections 13(b) and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C.  
5 §§ 53(b) and 56(a)(1), the Children’s Online Privacy Protection Act, 15 U.S.C. §§ 6502(c) and  
6 6505(d), and the Commission’s Children’s Online Privacy Protection Rule (“COPPA Rule”), 16  
7 C.F.R. Part 312. Defendant has waived service of the summons and the Complaint. Plaintiff and  
8 Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil  
9 Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

10  
11 THEREFORE, IT IS ORDERED as follows:

12  
13 **FINDINGS**

- 14 1. This Court has jurisdiction over this matter.
- 15 2. The Complaint charges that Defendant participated in deceptive acts or practices  
16 in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by misrepresenting the benefits of paid  
17 membership in, and Defendant’s practices relating to personal information collected from  
18 children in connection with, Defendant’s online talent search network.
- 19 3. The Complaint also charges that Defendant violated the COPPA Rule by failing  
20 to provide notice to parents of its information practices, and to obtain verifiable parental consent  
21 prior to collecting, using, or disclosing personal information from children.
- 22 4. Defendant neither admits nor denies any of the allegations in the Complaint,  
23 except as specifically stated in this Order. Only for purposes of this action, Defendant admits the  
24 facts necessary to establish jurisdiction.  
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5. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.

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

**DEFINITIONS**

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

- 1. “Child” means an individual under the age of 13.
- 2. “Collects” or “collection” means the gathering of any personal information from a child by any means, including but not limited to:
  - a. Requesting, prompting, or encouraging a child to submit personal information online;
  - b. Enabling a child to make personal information publicly available in identifiable form; or
  - c. Passive tracking of a child online.
- 3. “Defendant” means Prime Sites, Inc., a corporation, also doing business as Explore Talent, and its successors and assigns.
- 4. “Disclose or disclosure” means, with respect to personal information:
  - a. The release of personal information collected by an operator from a child in identifiable form for any purpose, except where an operator provides such information to a person who provides support for the internal operations of the website or online service; and

- 1           b.       Making personal information collected by an operator from a child  
2                   publicly available in identifiable form by any means, including but not  
3                   limited to a public posting through the Internet, or through a personal  
4                   home page or screen posted on a website or online service; a pen pal  
5                   service; an electronic mail service; a message board; or a chat room.  
6

7           5.       “Internet” means collectively the myriad of computer and telecommunications  
8 facilities, including equipment and operating software, which comprise the interconnected world-  
9 wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or  
10 any predecessor or successor protocols to such protocol, to communicate information of all kinds  
11 by wire, radio, or other methods of transmission.  
12

13           6.       “Obtaining verifiable consent” means making any reasonable effort (taking into  
14 consideration available technology) to ensure that before personal information is collected from a  
15 child, a parent of the child:

- 16           a.       Receives notice of the operator’s personal information collection, use, and  
17                   disclosure practices; and  
18           b.       Authorizes any collection, use, and/or disclosure of the personal  
19                   information.  
20

21           7.       “Online contact information” means an e-mail address or any other substantially  
22 similar identifier that permits direct contact with a person online, including but not limited to, an  
23 instant messaging user identifier, a voice over internet protocol (VOIP) identifier, or a video chat  
24 user identifier.  
25

26           8.       “Operator” means any person who operates a website located on the Internet or an  
27 online service and who collects or maintains personal information from or about the users of or  
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1 visitors to such website or online service, or on whose behalf such information is collected or  
2 maintained, or offers products or services for sale through that website or online service, where  
3 such website or online service is operated for commercial purposes involving commerce among  
4 the several States or with one (1) or more foreign nations; in any territory of the United States or  
5 in the District of Columbia, or between any such territory and another such territory or any State  
6 or foreign nation; or between the District of Columbia and any State, territory, or foreign nation.  
7

8 9. "Parent" includes a legal guardian.

9 10. "Person" means any individual, partnership, corporation, trust, estate, cooperative,  
10 association, or other entity.

11 11. "Personal information" means individually identifiable information about an  
12 individual collected online, including:

- 13
- 14 a. A first and last name;
  - 15 b. A home or other physical address including street name and name of a city  
16 or town;
  - 17 c. Online contact information;
  - 18 d. A screen or user name where it functions in the same manner as online  
19 contact information;
  - 20 e. A telephone number;
  - 21 f. A Social Security number;
  - 22 g. A persistent identifier that can be used to recognize a user over time and  
23 across different websites or online services. Such persistent identifier  
24 includes, but is not limited to, a customer number held in a cookie, an  
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1 Internet Protocol (IP) address, a processor or device serial number, or  
2 unique device identifier;

3 h. A photograph, video, or audio file where such file contains a child's image  
4 or voice;

5 i. Geolocation information sufficient to identify street name and name of a  
6 city or town; or

7 j. Information concerning the child or the parents of that child that the  
8 operator collects online from the child and combines with an identifier  
9 described in this definition.  
10

11 12. "Release of personal information" means the sharing, selling, renting, or transfer  
12 of personal information to any third party.  
13

14 13. "Support for the internal operations of the website or online service" means

15 a. Those activities necessary to:

16 i. Maintain or analyze the functioning of the website or online  
17 service;

18 ii. Perform network communications;

19 iii. Authenticate users of, or personalize the content on, the website or  
20 online service;

21 iv. Serve contextual advertising on the website or online service or  
22 cap the frequency of advertising;

23 v. Protect the security or integrity of the user, website, or online  
24 service;

25 vi. Ensure legal or regulatory compliance; or  
26  
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1                   vii.       Fulfill a request of a child as permitted by Section 312.5(c)(3) and  
2   (4) of COPPA;

3                   b.       So long as the information collected for these activities listed in a(i) – (vii)  
4   is not used or disclosed to contact a specific individual, including through  
5   behavioral advertising, to amass a profile on a specific individual, or for  
6   any other purpose.  
7

8                   14.       “Third party” means any person who is not:

9                   a.       An operator with respect to the collection or maintenance of personal  
10 information on the website or online service; or

11                   b.       A person who provides support for the internal operations of the website  
12 or online service and who does not use or disclose information protected under this part for any  
13 other purpose.  
14

15                   15.       “Website or online service directed to children” means a commercial website or  
16 online service, or portion thereof, that is targeted to children.  
17

18   **ORDER**

19   **I. INJUNCTION CONCERNING COLLECTION OF PERSONAL**  
20   **INFORMATION FROM CHILDREN**

21                   IT IS ORDERED that Defendant and Defendant’s officers, agents, employees, and  
22 attorneys, and all other persons in active concert or participation with any of them, who receive  
23 actual notice of this Order, whether acting directly or indirectly, in connection with being an  
24 operator of any website or online service directed to children or of any website or online service  
25 with actual knowledge that it is collecting or maintaining personal information from a child, are  
26 hereby permanently restrained and enjoined from:  
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1 A. failing to make reasonable efforts, taking into account available technology, to  
2 ensure that a parent of a child receives direct notice of Defendants' practices with regard to the  
3 collection, use, or disclosure of personal information from children, including notice of any  
4 material change in the collection, use, or disclosure practices to which the parent has previously  
5 consented;

6 B. failing to post a prominent and clearly labeled link to an online notice of its  
7 information practices with regard to children on the home or landing page or screen of its  
8 website or online service, and at each area of the website or online service where personal  
9 information is collected from children;

10 C. failing to obtain verifiable parental consent before any collection, use, or  
11 disclosure of personal information from children, including consent to any material change in the  
12 collection, use, or disclosure practices to which the parent has previously consented; and  
13

14 D. violating the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312, a  
15 copy of which is attached hereto as Appendix A.  
16

17 **II. INJUNCTION CONCERNING DELETION OF CHILDREN'S PERSONAL**  
18 **INFORMATION**

19 IT IS FURTHER ORDERED that Defendant and Defendant's officers, agents,  
20 employees, and attorneys, and all other persons in active concert or participation with any of  
21 them, who receive actual notice of this Order, are permanently restrained and enjoined from:  
22

23 A. disclosing, using, or benefiting from children's personal information which  
24 Defendant obtained prior to entry of this Order; and

25 B. failing to destroy children's personal information that is in their possession,  
26 custody, or control within ten (10) days after entry of this Order. *Provided, however,* that such  
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1 personal information need not be disposed of, and may be disclosed, to the extent requested by a  
2 government agency or required by law, regulation, or court order.

3 **III. MONETARY JUDGMENT FOR CIVIL PENALTY**

4 IT IS FURTHER ORDERED that:

5 A. Judgment in the amount of Five Hundred Thousand Dollars (\$500,000) is entered  
6 in favor of Plaintiff against Defendant as a civil penalty.

7  
8 B. Defendant is ordered to pay to Plaintiff, by making payment to the Treasurer of  
9 the United States, Two Hundred Thirty-Five Thousand Dollars (\$235,000). Such payment must  
10 be made within ninety (90) days of entry of the Order, unless otherwise agreed to by counsel for  
11 the Commission, by electronic fund transfer in accordance with instructions previously provided  
12 by a representative of Plaintiff. Upon such payment, the remainder of the judgment is  
13 suspended, subject to the Subsections below.

14  
15 C. The Commission and Plaintiff's agreement to the suspension of part of the  
16 judgment is expressly premised upon the truthfulness, accuracy, and completeness of the  
17 following sworn financial statements and related documents (collectively, "financial  
18 representations") submitted to the Commission, namely:

- 19  
20 1. the Financial Statement of Defendant Prime Sites, Inc. signed by Ami  
21 Shafrir, President, on September 29, 2017, including the attachments; and  
22 2. the Financial Statement of Defendant's President signed on September 30,  
23 2017, and submitted to Commission counsel, including the attachments.

24  
25 D. The suspension of the judgment will be lifted if, upon motion by the Commission  
26 or Plaintiff, the Court finds that Defendant or Defendant's President failed to disclose any  
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1 material asset, materially misstated the value of any asset, or made any other material  
2 misstatement or omission in the financial representations identified above.

3 E. If the suspension of the judgment is lifted, the judgment becomes immediately  
4 due in the amount specified in Subsection A above (which the parties stipulate only for purposes  
5 of this Section represents the amount of the civil penalty for the violations alleged in the  
6 Complaint), less any payment previously made pursuant to this Section, plus interest computed  
7 from the date of entry of this Order.  
8

9 F. Defendant relinquishes dominion and all legal and equitable right, title, and  
10 interest in all assets transferred pursuant to this Order and may not seek the return of any assets.  
11

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

15 H. Defendant agrees that the judgment represents a civil penalty owed to the  
16 government of the United States and is not compensation for actual pecuniary loss.  
17

18 I. Defendant acknowledges that its Employer Identification Numbers, which  
19 Defendant previously submitted to the Commission, may be used for collecting and reporting on  
20 any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.  
21

#### 22 **IV. PROHIBITION AGAINST MISREPRESENTATIONS**

23 IT IS FURTHER ORDERED that Defendant and Defendant's officers, agents,  
24 employees, and attorneys, and all other persons in active concert or participation with any of  
25 them, who receive actual notice of this Order, whether acting directly or indirectly, in connection  
26 with promoting or offering for sale of any good or service, are permanently enjoined from  
27 misrepresenting, or assisting others in misrepresenting, expressly or by implication:  
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1 A. that consumers have been specifically chosen for a role in an upcoming motion  
2 picture;

3 B. that consumers have been the subject of interest from casting directors;

4 C. any fact material to Defendant's practices with respect to personal information  
5 collected from children, including Defendant's collection, use, and disclosure practices; or

6 D. any other fact material to consumers concerning any good or service, such as: the  
7 total costs; any material restrictions, limitations, or conditions; or any material aspect of its  
8 nature or central characteristics.  
9

10 **V. ORDER ACKNOWLEDGMENTS**

11 IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this  
12 Order:  
13

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

16 B. For 5 years after entry of this Order, Defendant must deliver a copy of this Order  
17 to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees,  
18 agents, and representatives who participate in the collection, retention, storage, or security of  
19 personal information from children, if any, or who have responsibilities related to the operation  
20 of any website or online service through which Defendant collects personal information from  
21 users; and (3) any business entity resulting from any change in structure as set forth in the  
22 Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order  
23 for current personnel. For all others, delivery must occur before they assume their  
24 responsibilities.  
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1 C. From each individual or entity to which a Defendant delivered a copy of this  
2 Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of  
3 receipt of this Order.

4 **VI. COMPLIANCE REPORTING**

5 IT IS FURTHER ORDERED that Defendant make timely submissions to the  
6 Commission:  
7

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

10 1. identify the primary physical, postal, and email address and telephone  
11 number, as designated points of contact, which representatives of the Commission and Plaintiff  
12 may use to communicate with Defendant;  
13

14 2. identify all of Defendant's businesses by all of their names, telephone  
15 numbers, and physical, postal, email, and Internet addresses;

16 3. describe the activities of each business, including the goods and services  
17 offered, the means of advertising, marketing, and sales;

18 4. describe in detail whether and how Defendant is in compliance with each  
19 Section of this Order;  
20

21 5. provide a copy of each different version of any privacy notice posted on  
22 each website or online service operated by Defendants or sent to parents of children that register  
23 on each website or online service;

24 6. describe in detail the methods used to obtain verifiable parental consent  
25 prior to any collection, use, and/or disclosure of personal information from children through any  
26 website or online service;  
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1           7.       describe in detail the means provided for parents to review the personal  
2 information collected from their children and to refuse to permit its further use or maintenance;  
3 and

4           8.       provide a copy of each Order Acknowledgment obtained pursuant to this  
5 Order, unless previously submitted to the Commission.  
6

7           B.       For 20 years after entry of this Order, Defendant must submit a compliance  
8 notice, sworn under penalty of perjury, within 14 days of any change in: (1) any designated  
9 point of contact; or (2) the structure of Defendant or any entity that Defendant has any ownership  
10 interest in or controls directly or indirectly that may affect compliance obligations arising under  
11 this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary,  
12 parent, or affiliate that engages in any acts or practices subject to this Order.  
13

14           C.       Defendant must submit to the Commission notice of the filing of any bankruptcy  
15 petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14  
16 days of its filing.  
17

18           D.       Any submission to the Commission required by this Order to be sworn under  
19 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by  
20 concluding: “I declare under penalty of perjury under the laws of the United States of America  
21 that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s  
22 full name, title (if applicable), and signature.  
23

24           E.       Unless otherwise directed by a Commission representative in writing, all  
25 submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or  
26 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,  
27  
28

1 Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,  
2 Washington, DC 20580. The subject line must begin: *FTC v. Prime Sites, Inc.*, X\_\_\_\_\_.

3 **VII. RECORDKEEPING**

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

- 7
- 8 A. accounting records showing the revenues from all goods or services sold;
  - 9 B. personnel records showing, for each person providing services, whether as an  
10 employee or otherwise, that person's: name; addresses; telephone numbers; job title or position;  
11 dates of service; and (if applicable) the reason for termination;
  - 12 C. all records necessary to demonstrate full compliance with each provision of this  
13 Order, including all submissions to the Commission;
  - 14 D. records of all consumer complaints and refund requests, whether received directly  
15 or indirectly, such as through a third party, and any response;
  - 16 E. a copy of each materially different form, page, or screen created, maintained, or  
17 otherwise provided by Defendant through which personal information is collected through any  
18 website or online service, and a copy of each materially different document containing any  
19 representation regarding collection, use, and disclosure practices pertaining to personal  
20 information collected through such website or online service. Each webpage copy shall be  
21 accompanied by the URL of the webpage where the material was posted online. Electronic  
22 copies shall include all text and graphics files, audio scripts, and other computer files used in  
23 presenting information on the Internet.  
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1 F. a copy of each unique advertisement, other marketing material, telemarketing  
2 script, or other representation made in connection with promoting or offering for sale of any  
3 good or service.

4 **VIII. COMPLIANCE MONITORING**

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

7  
8 A. Within fourteen (14) days of receipt of a written request from a representative of  
9 the Commission or Plaintiff, Defendant must: submit additional compliance reports or other  
10 requested information, which must be sworn under penalty of perjury; appear for depositions;  
11 and produce documents for inspection and copying. The Commission and Plaintiff are also  
12 authorized to obtain discovery, without further leave of court, using any of the procedures  
13 prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33,  
14 34, 36, 45, and 69.

15  
16 B. For matters concerning this Order, the Commission and Plaintiff are authorized  
17 to communicate directly with Defendant. Defendant must permit representatives of the  
18 Commission and Plaintiff to interview any employee or other person affiliated with Defendant  
19 who has agreed to such an interview. The person interviewed may have counsel present.

20  
21 C. The Commission and Plaintiff may use all other lawful means, including posing,  
22 through its representatives as consumers, suppliers, or other individuals or entities, to Defendants  
23 or any individual or entity affiliated with Defendants, without the necessity of identification or  
24 prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process,  
25 pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.  
26  
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**IX. 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.

The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.

  
\_\_\_\_\_  
U.S. District Judge Jennifer A. Dorsey  
February 12, 2018

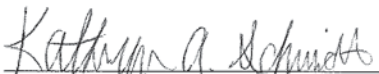
**SO STIPULATED AND AGREED:**

**FOR PLAINTIFF UNITED STATES OF AMERICA**

CHAD A. READLER  
Acting Assistant Attorney General  
Civil Division  
U.S. Department of Justice

ETHAN DAVIS  
Deputy Assistant Attorney General


GUSTAV W. EYLER  
Acting Director  
Consumer Protection Branch

  
KATHRYN A. SCHMIDT  
Trial Attorney  
Consumer Protection Branch




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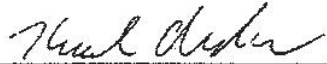
**FOR THE FEDERAL TRADE COMMISSION**

  
\_\_\_\_\_  
MATTHEW H. WERNZ  
SAMUEL A.A. LEVINE  
Federal Trade Commission  
Midwest Region  
230 South Dearborn Street, Suite 3030  
Chicago, IL 60604  
Tel.: (312) 960-5634

**FOR DEFENDANT**

  
\_\_\_\_\_  
Kandi Parsons  
Stacey M. Brandenburg  
ZwillGen, PLLC  
1900 M Street, NW, Suite 250  
Washington, DC 20036  
Tel.: (202) 706-5213

Date: 1/29/18

  
\_\_\_\_\_  
Karl Andersen, Esq.  
Andersen & Broyles, LLP  
5550 Painted Mirage Road, Suite 320  
Las Vegas, Nevada 89149  
Tel.: (702) 220-4529

Date: 1-22-18

*Attorneys for Defendant Prime Sites, Inc.*

  
\_\_\_\_\_  
Prime Sites, Inc.  
by Anni Shafrir, President

Date: 1-30-18