

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

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<b>In the Matter of</b>	)	
	)	
<b>FAJILAN AND ASSOCIATES, INC.</b>	)	
<b>also d/b/a STATEWIDE CREDIT SERVICES,</b>	)	<b>FILE NO.</b>
<b>a corporation,</b>	)	
	)	
<b>and</b>	)	<b>AGREEMENT CONTAINING</b>
	)	<b>CONSENT ORDER</b>
<b>ROBERT FAJILAN,</b>	)	
<b>individually and as an officer</b>	)	
<b>of the corporation.</b>	)	
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The Federal Trade Commission (“Commission”) has conducted an investigation of certain acts and practices of Fajilan and Associates, Inc. also d/b/a Statewide Credit Services (“Statewide”), and Robert Fajilan (“proposed respondents”). Proposed respondents are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

**IT IS HEREBY AGREED** by and between Statewide, Robert Fajilan, and counsel for the Federal Trade Commission that:

1. Proposed respondent Statewide is a California corporation with its principal office or place of business at 2690 South White Road, Suite 235, San Jose, CA 95148.
2. Proposed respondent Robert Fajilan (“Fajilan”) is owner and President of Statewide. Individually, or in concert with others, he formulates, directs, or controls the policies, acts, or practices of respondent Statewide. His principal place of business is the same as Statewide.
3. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint.
4. Proposed respondents waive:
  - (a) any further procedural steps;
  - (b) the requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
  - (c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.
7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondents' address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.
8. Proposed respondents have read the draft complaint and consent order. Proposed respondents understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

## ORDER

### DEFINITIONS

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

1. "Personal information" shall mean individually identifiable information from or about an individual consumer including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information; (d) a telephone number; (e) a Social Security number; (f) a credit card or debit card account number; (g) checking account information;

(h) a driver's license, military or state identification number; (i) a persistent identifier, such as a customer number that is combined with other available data that identifies an individual consumer; or (j) any information that is combined with any of (a) through (i) above.

2. "Gramm-Leach-Bliley Act" or "GLB Act" refers to 15 U.S.C. §§ 6801-6809, as amended, the "Safeguards Rule" or the "Standards for Safeguarding Customer Information Rule" refers to 16 C.F.R. Part 314, issued pursuant to Title V, Subtitle A of the GLB Act, 15 U.S.C. §§ 6801-6809.
3. "Financial institution" shall mean as defined in Section 509(3)(A) of the GLB Act, 15 U.S.C. § 6809(3)(A).
4. "The Fair Credit Reporting Act" or "FCRA" refers to 15 U.S.C. § 1681 *et seq.*
5. "Consumer report" shall mean as defined in Section 603(d)(1) of the FCRA, 15 U.S.C. § 1681a(d)(1).
6. Unless otherwise specified, "Corporate respondent" shall mean Statewide Credit Services, Inc. and its subsidiaries, divisions, affiliates, successors and assigns. "Individual respondent" means Robert Fajilan. "Respondents" means the Individual respondent and Corporate respondent, individually, collectively, or in any combination.
7. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

**IT IS ORDERED** that Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, shall, no later than the date of service of this order, establish and implement, and thereafter maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers, including the security, confidentiality, and integrity of personal information accessible to end users. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to Corporate respondent's or the entity's size and complexity, the nature and scope of Corporate respondent's or the entity's activities, and the sensitivity of the personal information collected from or about consumers. The information security program must include:

- A. the designation of an employee or employees to coordinate and be accountable for the information security program;
- B. the identification of material internal and external risks to the security, confidentiality, and integrity of personal information that could result in

the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management; (2) information systems, including network and software design, access, information processing, storage, transmission, and disposal; and (3) prevention, detection, and response to attacks, intrusions, or other systems failures;

- C. the design and implementation of reasonable safeguards to control the risks identified through risk assessment and regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;
- D. the development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from the Corporate respondent or the entity, and requiring service providers by contract to implement and maintain appropriate safeguards; and
- E. the evaluation and adjustment of respondent's or the entity's information security program in light of the results of the testing and monitoring required by sub-Part C, any material changes to Corporate respondent's or the entity's operations or business arrangements, or any other circumstances that Corporate respondent or the entity know or have reason to know may have a material impact on the effectiveness of their information security program.

## II.

**IT IS FURTHER ORDERED** that Corporate respondent and any business entity that Individual respondent, Robert Fajilan controls, directly or indirectly, and their officers, agents, representatives, and employees, shall not, directly or through any corporation, subsidiary, division, website, or other device, violate any provision of the Safeguards Rule, 16 C.F.R. Part 314. In the event that this Rule is hereafter amended or modified, respondents' compliance with that Rule as so amended or modified shall not be a violation of this order.

## III

**IT IS FURTHER ORDERED** that Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, in connection with the compilation, creation, sale, or dissemination of any consumer report shall:

- A. furnish such consumer report only to those with a permissible purpose as described in Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b;

- B. maintain reasonable procedures to limit the furnishing of such consumer report to those with a permissible purpose and ensure that no consumer report is furnished to any person when there are reasonable grounds to believe that the consumer report will not be used for a permissible purpose, as required by Section 607(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681e(a).

#### IV.

**IT IS FURTHER ORDERED** that, Corporate respondent and any business entity that Individual respondent, Robert Fajilan, controls, directly or indirectly, which collects, maintains, or stores personal information from or about consumers, shall, in connection with their compliance with Part I of this order, obtain initial and biennial assessments and reports (“Assessments”) from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies by a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); a person holding Global Information Assurance Certification (GIAC) from the SysAdmin, Audit, Network, Security (SANS) Institute; or a similarly qualified person or organization approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580. The reporting period for the Assessments shall cover: (1) the first one hundred and eighty (180) days after service of the order for the initial Assessment, and (2) each two (2) year period thereafter for twenty (20) years after service of the order for the biennial Assessments. Each Assessment shall:

- A. set forth the specific administrative, technical, and physical safeguards that Corporate respondent or the entity have implemented and maintained during the reporting period;
- B. explain how such safeguards are appropriate to Corporate respondent’s or the entity’s size and complexity, the nature and scope of Corporate respondent’s or the entity’s activities, and the sensitivity of the personal information collected from or about consumers;
- C. explain how the safeguards that have been implemented meet or exceed the protections required by the Safeguards Rule; and
- D. certify that Corporate respondent’s or the entity’s security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

Respondents shall provide the initial Assessment to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be

retained by respondents until the order is terminated and provided to the Associate Director of Enforcement within ten (10) days after respondents receive such request.

V.

**IT IS FURTHER ORDERED** that Corporate respondent, and Individual respondent, Robert Fajilan, for any business entity that he controls, directly or indirectly, which collects, maintains or stores personal information from or about consumers, shall maintain, and upon request make available to the Federal Trade Commission for inspection and copying:

- A. for a period of five (5) years, a print or electronic copy of each document relating to compliance, including but not limited to documents, prepared by or on behalf of Corporate respondent or the entity, that contradict, qualify, or call into question Corporate respondent's or the entity's compliance with this order;
- B. for a period of five (5) years, copies of all subpoenas and other communications with law enforcement entities or personnel, whether in written or electronic form, if such documents bear in any respect on Corporate respondent's or the entity's collection, maintenance, or furnishing of consumer reports or other personal information of consumers; and
- C. for a period of three (3) years after the date of preparation of each Assessment required under Part IV of this order, all materials relied upon to prepare the Assessment, whether prepared by or on behalf of the Corporate respondent or the entity, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to the Corporate respondent's or the entity's compliance with Parts I and II of this order, for the compliance period covered by such Assessment.

VI.

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

- A. Corporate respondent must deliver a copy of this Order to (1) all current and future principals, officers, directors, and managers, (2) all employees, agents and representatives who engage in conduct related to the subject matter of the Order, and (3) any business entity resulting from any change in structure set forth in Part VIII. For current personnel, delivery shall be within five (5) days of service of this Order. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Part VIII, delivery shall be at least ten (10) days prior to the change in structure.
- B. For any business that Individual respondent, Robert Fajilan, controls, directly or

indirectly, which collects, maintains, or stores personal information from or about consumers, Individual respondent must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business, (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order, and (3) any business entity resulting from any change in structure set forth in Part VII. For current personnel, delivery shall be within five (5) days of service of this Order. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Part VII, delivery shall be at least ten (10) days prior to the change in structure.

- C. For any business that collects, maintains, or stores personal information from or about consumers, where Individual respondent, Robert Fajilan, is not a controlling person of the business, but he otherwise has responsibility, in whole or in part, for developing or overseeing the implementation of policies and procedures to protect the privacy, security, confidentiality, or integrity of personal information collected from or about consumers by the business, Individual respondent must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. Respondents must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this section.

## VII.

**IT IS FURTHER ORDERED** that Individual respondent Fajilan, for a period of ten (10) years from the date of entry of this Order, shall notify the Commission of the following:

- A. Any changes in Individual respondent's residence, mailing address, and or telephone numbers, within ten (10) days of such a change;
- B. Any changes in Individual respondent's business or employment status (including self-employment), and any changes in his ownership in any business entity, within ten (10) days of such a change. Such notice shall include the name and address of each business that respondent is affiliated with, employed by, created or forms, or performs services for; a detailed description of the nature of the business or employment; and a detailed description of the respondent's duties and responsibilities in connection with such business or employment; and
- C. Any changes in Individual respondent's name or use of any aliases or fictitious names, including "doing business as" names.

Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of

Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line FTC v. Fajilan and Associates, Inc. also d/b/a Statewide Credit Services, and Robert Fajilan. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at DEbrief@ftc.gov.

#### VIII.

**IT IS FURTHER ORDERED** that Corporate respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation 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 corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that with respect to any proposed change in the corporation about which Corporate respondent learns less than thirty (30) days prior to the date such action is to take place, Corporate respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line FTC v. Fajilan and Associates Inc., d/b/a Statewide Credit Services, and Robert Fajilan. Provided, however, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at DEbrief@ftc.gov.

#### IX.

**IT IS FURTHER ORDERED** that Corporate respondent, and its successors and assigns, and Individual respondent Robert Fajilan, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of their own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, they shall submit additional true and accurate written reports.

#### X.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. any Part in this order that terminates in less than twenty (20) years;
- B. this order's application to any respondent that is not named as a defendant in such

complaint; and

- C. this order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

FAJILAN AND ASSOCIATES, INC.  
also d/b/a STATEWIDE CREDIT SERVICES.

By: \_\_\_\_\_  
ROBERT FAJILAN  
President

By: \_\_\_\_\_  
ROBERT FAJILAN, individually

FEDERAL TRADE COMMISSION

By: \_\_\_\_\_  
ANTHONY RODRIGUEZ  
KATHERINE WHITE

Counsel for the Federal Trade Commission

APPROVED:

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REBECCA E. KUEHN  
Assistant Director  
Division of Privacy & Identity Protection

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