

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of

Cambridge Analytica, LLC,
a corporation.

PUBLIC

DOCKET NO. 9383

COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION

Pursuant to Rule 3.24 of the Commission's Rules of Practice, Complaint Counsel respectfully moves for summary decision in this matter. *See* 16 C.F.R. §3.24(a) (allowing Complaint Counsel to file a summary judgment motion at any time after 20 days following the issuance of the complaint). By this Motion, Complaint Counsel seeks entry of a final decision and order consistent with the proposed order attached hereto. For the reasons set forth below, this motion should be granted.

On July 24, 2019, the Commission issued an administrative complaint against Cambridge Analytica, LLC, alleging that Cambridge Analytica had engaged in deceptive acts and practices related to its harvesting of consumer data through a Facebook application known as the "GSRApp," and related to its participation in the EU-U.S. Privacy Shield framework. The complaint and notice order were duly served on Cambridge Analytica's corporate headquarters and on Cambridge Analytica's bankruptcy trustee. *See* Kopp Decl., Exh. A (signed delivery

receipts). Cambridge Analytica's answer was due on August 12, 2019. 16 C.F.R. § 3.12(a). Cambridge Analytica did not file an answer.

Under Rule 3.12(c) of the Commission's Rules of Practice, Cambridge Analytica's failure to file an answer is deemed a waiver of its right to appear and to contest the allegations in the complaint. 16 C.F.R. §3.12(c). Thus, there are no material issues of fact in dispute in this matter.

Rule 3.12(c) also authorizes the Commission, without further notice, "to find the facts to be as alleged in the complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding." *Id.* While operation of this rule would allow the Commission to enter an order consistent with the notice order attached to the complaint *sua sponte*, this Motion proposes several minor changes to the notice order based on comments Complaint Counsel received from Cambridge Analytica's bankruptcy trustee.

Specifically, the proposed order makes the following changes related to the records access provisions in the notice order attached to the complaint: (1) deletes the definition of "Trustee"; (2) substitutes "Respondent" for "Trustee" in Part VI's Access to Corporate Documents and Data; and (3) deletes the language, "and upon the Commission's designation, the Trustee shall transfer such [abandoned corporate] books and records to the Commission" from the third paragraph in Part VI. The first two changes will allow the Commission to expeditiously enter a final decision and order that protects consumers without first having to seek leave of the bankruptcy court. *Cf. McIntire v. China MediaExpress Holdings, Inc.*, 113 F. Supp. 3d 769, 772 (S.D.N.Y. 2015) (explaining that under the Barton doctrine, any suit naming and requiring action by a court-appointed receiver personally, rather than the debtor, requires leave of the appointing court); *Barton v. Barbour*, 104 U.S. 126, 136-37 (1881). The third change is necessary because

the trustee cannot transfer abandoned corporate books and records to the Commission.

Bankruptcy regulations require the trustee to return abandoned corporate books and records to the estate after the bankruptcy court has entered its final order dissolving the company. *See* 11 U.S.C. §554(d) (abandoned property returns to the estate). The corporate books and records referenced in this provision would not include the data or work product required to be deleted under Part IV of the proposed order.

Complaint Counsel discussed this motion with Cambridge Analytica's bankruptcy trustee, who has the legal authority to act on behalf of Cambridge Analytica. *See* 11 U.S.C. §§ 323(a), 723. The bankruptcy trustee did not object to the filing of this motion. *See* Kopp Declaration, at ¶¶ 3-4.

Dated: August 16, 2019

Respectfully submitted,

s/ Linda Holleran Kopp
Linda Holleran Kopp, Esq.
Federal Trade Commission
Bureau of Consumer Protection
Division of Privacy & Identity Protection
600 Pennsylvania Ave., N.W.
Washington, DC 20580
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Counsel Supporting the Complaint

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**[PROPOSED] ORDER GRANTING COMPLAINT COUNSEL’S MOTION FOR
SUMMARY DECISION**

The Commission has carefully considered Complaint Counsel’s Motion for Summary Decision, any oppositions or replies filed thereto, all declarations and other evidence, and the applicable law. For the reasons set forth in the accompanying opinion, the Federal Trade Commission, pursuant to Sections 3.12(c) and 3.24 of its Rules, 16 C.F.R. §§ 3.12(c), 3.24, finds the facts as alleged in the administrative complaint in this matter are true and that Respondent has violated Section 5 of the FTC Act, and issues the following final Order:

Order

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

- A. “Covered Information” means the following information from or about an individual consumer including: (a) a first and last name; (b) a physical address or precise geolocation; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver’s license or other government-issued identification number; (g) a financial institution account number; (h) credit or debit card information; (i) a persistent identifier, such as a customer number held in a “cookie,” a mobile device ID, or processor serial number; (j) data fields that can be accessed or collected through Facebook from or about Facebook Users or their

Friends (*e.g.*, “likes,” “hometowns,” “birthdates,” “photos,” “gender,” “educational information,” “religious or political views,” or “marital” or other “relationship” status); (k) information that is created, maintained, or accessed by the consumer (*e.g.*, “messages”); (l) any data regarding a consumer’s activities online (*e.g.*, searches conducted, web pages visited, or content viewed); or (m) any user credentials, such as a username and password.

- B. “Facebook” means Facebook Inc., its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.
- C. “GSRApp” means all iterations of the GSRApp Facebook application that first began operating on the Facebook platform in May 2014.
- D. “Respondent” means Cambridge Analytica, LLC, and its successors and assigns.

I. Prohibition against Misrepresentations about Covered Information

IT IS ORDERED that Respondent and Respondent’s 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 any product or service must not misrepresent in any manner, expressly or by implication, the extent to which they protect the privacy and confidentiality of any Covered Information, including:

- A. The extent to which they collect, use, share, or sell any Covered Information; and
- B. The purposes for which they collect, use, share, or sell any Covered Information.

II. Prohibition against Misrepresentations about Participating in Privacy or Security Programs

IT IS FURTHER ORDERED that Respondent and Respondent’s 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 any product or service must not misrepresent in any manner, expressly or by implication, the extent to which Respondent is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy or security program sponsored by a government or any self-regulatory or standard-setting organization, including but not limited to the EU-U.S. Privacy Shield framework, the Swiss-U.S. Privacy Shield framework, and the APEC Cross-Border Privacy Rules.

III. Requirement to Meet Continuing Obligations Under Privacy Shield

IT IS FURTHER ORDERED that Respondent and Respondent’s 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 any product or service shall not possess or control personal information from European Union residents that Respondent received while it participated in the EU-U.S. Privacy Shield framework, unless Respondent:

- A. Affirms to the Department of Commerce, within ten (10) days after the effective date of this Order and on an annual basis thereafter for as long as it retains such information, that it will:
 - 1. Continue to apply the EU-U.S. Privacy Shield framework principles to the personal information it received while it participated in the Privacy Shield; or
 - 2. Protect the information by another means authorized under EU (for the EU-U.S. Privacy Shield framework) or Swiss (for the Swiss-U.S. Privacy Shield framework) law, including by using a binding corporate rule or a contract that fully reflects the requirements of the relevant standard contractual clauses adopted by the European Commission.

For purposes of this subprovision, Respondent does not possess or control personal information in the possession of a government regulatory or law enforcement agency, including the United Kingdom's Information Commissioner's Office; or

- B. Returns or deletes the information within ten (10) days after the effective date of this Order; or if, as of the effective date of this Order, the information is in the possession of a government regulatory or law enforcement agency, including the United Kingdom's Information Commissioner's Office, returns or deletes the information within ten (10) days after the information is returned to Respondent.

IV. Required Deletion of Data

IT IS FURTHER ORDERED that Respondent, and Respondent's 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, must:

- A. Provide, within ten (10) days from the effective date of this Order, the Commission with a written statement, sworn under penalty of perjury, providing the name, address, and phone number for each person with whom Respondent shared any Covered Information collected from consumers through GSRApp, and any information that originated, in whole or in part, from this Covered Information;
- B. Delete or destroy all Covered Information collected from consumers through GSRApp, and any information or work product, including any algorithms or equations, that originated, in whole or in part, from this Covered Information. Such deletion or destruction must occur within ten (10) days of the effective date of this Order, or if such information is in the possession of a government regulatory or law enforcement agency, including the United Kingdom's Information Commissioner's Office, as of the effective date of this Order, within ten (10) days after the Covered

Information is returned to Respondent. Provided, however, that such Covered Information, or any information that originated in whole or in part from such Covered Information, need not be deleted or destroyed for so long as requested by a government agency or otherwise required by regulation, court order or other legal obligation; and

- C. Provide a written statement to the Commission, sworn under penalty of perjury, confirming the foregoing. This statement must be provided: (1) within thirty (30) days after the effective date of the Order; or, if applicable, (2) within thirty (30) days after the Covered Information is returned to Respondent from a government regulatory or law enforcement agency, or within thirty (30) days after any legal obligation to preserve the Covered Information has ended.

V. Duty to Protect Covered Information

IT IS FURTHER ORDERED that Respondent, and Respondent's 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, are permanently restrained and enjoined from disclosing, using, selling, or receiving any benefit from Covered Information or any information that originated, in whole or in part, from this Covered Information.

VI. Access to Corporate Documents and Data

IT IS FURTHER ORDERED that Respondent shall make available to the Commission, for inventory and copying, all correspondence, email, financial data including tax returns, and any other documents, computer equipment, and electronically stored information, in Respondent's possession, custody, or control, that contain information about Respondent's role and assets at the Commission's expense. The Commission shall return each item produced for inventory or copying to Respondent within ten (10) business days from the date and time of Respondent's delivery of each such item.

IT IS FURTHER ORDERED that Respondent, to the extent it has possession, custody, or control of computer equipment or electronically stored information described above, shall provide the Commission with any necessary means of access to the computer equipment or electronically stored information, including, but not limited to, computer access codes and passwords.

IT IS FURTHER ORDERED that Respondent shall provide notice to the Commission of the proposed abandonment of any corporate books or records of Respondent.

VII. Order Effective Dates

IT IS FURTHER ORDERED that the final and effective date of this Order is the 60th day after this Order is served. This Order will terminate twenty (20) years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or

twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Provision 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 Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that the Respondent 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 Provision 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.

By the Commission.

April J. Tabor
Acting Secretary

SEAL:
ISSUED:

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of Cambridge Analytica, LLC, a corporation.

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DECLARATION OF LINDA HOLLERAN KOPP

1. I have personal knowledge of the facts set forth in this declaration, and if called as a witness I could and would testify competently under oath to such facts.
2. I am an attorney at the Federal Trade Commission and Complaint Counsel in this proceeding. Attached to this declaration is an exhibit submitted in support of Complaint Counsel's Motion for Summary Decision.
3. I discussed the notice order attached to the administrative complaint with the bankruptcy trustee for Respondent Cambridge Analytica, LLC, Salvatore LaMonica, Esq., of the law firm LaMonica Herbst & Maniscalco, LLP, and his associate, Michael Rozea, Esq. I spoke with Mr. Rozea by telephone on several occasions, including on August 2, 2019, August 5, 2019, and August 8, 2019, to discuss the bankruptcy trustee's comments on Part VI of the notice order.
4. Through his associate, the bankruptcy trustee stated that he would not make an appearance and object to the filing of this motion or to Complaint Counsel seeking entry of the proposed order attached to Complaint Counsel's Motion for Summary Decision.

5. Exhibit A is a true and correct copy of signed delivery receipts confirming that service of the administrative complaint was perfected on or about July 26, 2019 at Cambridge Analytica's corporate headquarters at 597 Fifth Avenue, 7th Floor, New York, NY 10017, and at the law offices for Cambridge Analytica's bankruptcy trustee, Salvatore LaMonica, Esq., at LaMonica Herbst & Maniscalco LLP, 3305 Jerusalem Avenue, #201, Wantagh, NY 11793.

I declare under the penalty of perjury that the foregoing is true and correct. Executed this 16th day of August, 2019, at Washington, DC.

s/ Linda Holleran Kopp
Linda Holleran Kopp, Esq.
Federal Trade Commission
Bureau of Consumer Protection
Division of Privacy & Identity Protection
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Telephone: (202) 326-2267
Facsimile: (202) 326-3062
Email: lkopp@ftc.gov

Counsel Supporting the Complaint

Exhibit A

From: TrackingUpdates@fedex.com
Sent: Friday, July 26, 2019 9:41 AM
To: [REDACTED]
Subject: FedEx Shipment 775826564427 Delivered

Your package has been delivered

Tracking # 775826564427

Ship date
Thu, 7/25/2019
Sherri Harris
Federal
Washington, DC 20024
US

Delivery date
Fri 7/26/2019 9:37 am
Salvatore LaMonica Esq.
Counsel for Cambridge
Analytica LLC
3305 Jerusalem Avenue, #201
LaMonica Herbst & Maniscalco
LLP
WANTAGH, NY 11793
US



Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number: 775826564427
Status: Delivered: 07/26/2019 09:37 AM Signed for By: T.POVELL
Purchase order number: 0612
Reference: 1823107
Signed for by: T POVELL
Delivery location: WANTAGH, NY
Delivered to: Residence
Service type: FedEx Priority Overnight®
Packaging type: FedEx® Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Deliver Weekday
Residential Delivery
Direct Signature Required

Thomas, Anita C

From: TrackingUpdates@fedex.com
Sent: Friday, July 26, 2019 9:47 AM
To: [REDACTED]
Subject: FedEx Shipment 775831886657 Delivered

Your package has been delivered

Tracking # 775831886657

Ship date:
Thu, 7/25/2019
Sherri Harris
Federal
Washington, DC 20024
US



Delivery date:
Fri, 7/26/2019 9:41 am
Cambridge Analytica, LLC
597 Fifth Avenue, 7th Floor
NEW YORK, NY 10017
US



Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number	<u>775831886657</u>
Status:	Delivered: 07/26/2019 09:41 AM Signed for By: H.ALAINA
Purchase order number:	0612
Reference:	1823107/595332
Signed for by:	H ALAINA
Delivery location:	NEW YORK, NY
Delivered to:	Receptionist/Front Desk
Service type:	FedEx Priority Overnight®
Packaging type:	FedEx® Envelope
Number of pieces:	1
Weight:	0.50 lb
Special handling/Services:	Deliver Weekday Direct Signature Required
Standard transit:	7/26/2019 by 10:30 am

Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 8:46 AM CDT on 07/26/2019. All weights are estimated.



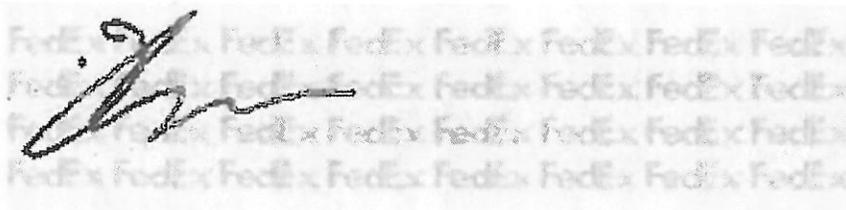
July 29, 2019

Dear Customer:

The following is the proof-of-delivery for tracking number 775831886657.

Delivery Information:

Status:	Delivered	Delivered to:	Receptionist/Front Desk
Signed for by:	H.ALAINA	Delivery location:	597 FIFTH AVENUE 7TH FLOOR NEW YORK, NY 10017
Service type:	FedEx Priority Overnight	Delivery date:	Jul 26, 2019 09:41
Special Handling:	Deliver Weekday Direct Signature Required		



Shipping Information:

Tracking number:	775831886657	Ship date:	Jul 25, 2019
		Weight:	0.5 lbs/0.2 kg

Recipient:
Cambridge Analytica, LLC
597 Fifth Avenue, 7th Floor
NEW YORK, NY 10017 US

Shipper:
Sherrri Harris
Federal
400 Seventh Street S.W.
Washington, DC 20024 US

Reference 1823107/595332
Purchase order number: 0612

Thank you for choosing FedEx.

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CONCISE STATEMENT OF UNDISPUTED FACTS

Pursuant to Rule 3.24, Complaint Counsel submits, in support of its Motion for Summary Decision, the following statement of material facts as to which there is no genuine dispute:

1. Respondent Cambridge Analytica, LLC (“Cambridge Analytica”) is a private Delaware limited liability company that was formed in December 2013, and had a principal office or place of business at 597 Fifth Avenue, 7th Floor, New York, NY 10017.
2. Cambridge Analytica is part of the SCL Group Ltd. family of companies. SCL Elections Limited (“SCL Elections”), a privately held U.K. Corporation, has held an ownership interest in Cambridge Analytica.
3. Cambridge Analytica has operated as a data analytics and consulting company that provides voter profiling and marketing services. Cambridge Analytica describes itself on its website as “a data-science consultancy and marketing agency” that is “politically neutral.”

4. In May 2018, Cambridge Analytica filed for bankruptcy, which proceedings are still ongoing.
5. During the relevant time period, Cambridge Analytica and SCL Elections conducted their business practices through an interrelated network of companies that have common business functions, ownership, officers, and employees. For example, Alexander Nix was both the head of SCL Elections and also the Chief Executive Officer of Cambridge Analytica.
6. The acts or practices of Cambridge Analytica as alleged in the complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
7. The Commission has jurisdiction over Cambridge Analytica and the subject matter of this proceeding.

Agreement to Harvest Facebook User Profile Data for Commercial Purposes

8. In late 2013 or early 2014, Cambridge Analytica, along with its CEO, Alexander Nix, and SCL Elections, became aware of research by individuals at the Psychometrics Centre within the University of Cambridge in the United Kingdom that found that Facebook profile information could be used to successfully predict an individual’s personality traits according to the “OCEAN” scale, a psychometric model that measures an individual’s openness to experiences, conscientiousness, extraversion, agreeableness, and neuroticism.
9. Specifically, researchers developed an algorithm that could predict an individual’s personality based on the individual’s “likes” of public Facebook pages. For example, liking Facebook pages related to *How to Lose a Guy in 10 Days*, George W. Bush, and rap and hip-hop could be linked with a conservative and conventional personality. The

researchers argued that their algorithm, which was more accurate for individuals who had more public Facebook page “likes,” could potentially predict an individual’s personality better than the person’s co-workers, friends, family, and even spouse.

10. Cambridge Analytica, along with Nix and SCL Elections, were interested in this research because Cambridge Analytica intended to offer voter profiling, microtargeting, and other marketing services to U.S. campaigns and other U.S.-based clients.
11. Through mutual contacts, representatives of SCL Elections who had dual roles at Cambridge Analytica reached out to Aleksandr Kogan and other academics affiliated with the Psychometrics Centre in early 2014 to discuss a potential working relationship to commercialize this research.
12. Aleksandr Kogan, who was a Senior Research Associate and Lecturer at the Department of Psychology at the University of Cambridge, had expertise researching and analyzing Facebook data. In particular, he had prior research collaborations with Facebook that analyzed aggregated Facebook data relating to how people worldwide connect and express emotions.
13. Kogan was willing to enter into a commercial venture with SCL Elections, and after several months of discussion, the parties reached an agreement about the scope of work (the “Project”).
14. Importantly, Kogan already had a Facebook app that was registered on the Facebook platform, the CPW Lab app, that could be repurposed to collect profile data from Facebook users and their “friends” through Facebook’s developer tool, Graph API (v.1).
15. Facebook’s Graph API (v.1) allowed developers to collect Facebook profile data from users who directly installed or otherwise interacted with the developer’s application or

website through a Facebook Login (“App Users”), as well as from these users’ Facebook “friends.” Facebook allowed this data collection even though the “friends” did not have any direct interaction with the app or website (“Affected Friends”). While Facebook had announced in April 2014 that it was introducing a new version of the Graph API—v.2—that would no longer allow developers to collect profile data from Affected Friends, only from the App Users themselves, existing apps had one year before these limitations went into effect, whereas new apps would automatically be limited. Kogan’s app was, thus, “grandfathered” into the more permissive data collection allowable under Graph API (v.1), making Kogan an appealing partner for Cambridge Analytica, Nix, and SCL Elections.

16. On May 29, 2014, Kogan incorporated a now-defunct U.K. corporation, Global Science Research, Ltd. (“GSR”), to carry out the Project, separate and apart from his duties at the University of Cambridge. Kogan was a founder and Chief Executive Officer of GSR, and worked on all aspects of GSR’s products and services before GSR was dissolved in October 2017.
17. On June 4, 2014, GSR and SCL Elections entered into the GS Data and Technology Subscription Agreement (the “June 2014 Agreement”). Nix signed this agreement for SCL Elections.
18. Under this agreement, GSR agreed to harvest Facebook profile data from App Users and Affected Friends in 11 U.S. states, generate personality scores for these individuals, and then match these profiles to U.S. voter records provided to GSR by SCL Elections.

19. GSR would then send these matched records along with the associated personality scores back to SCL Elections. GSR retained the original data set and granted SCL Elections a license to access the data and to use the proprietary GSR personality scores.
20. Following the creation of GSR and the signing of the June 2014 Agreement, Kogan repurposed the CPW Lab app to become the “GSRApp.”
21. Although SCL Elections is the entity that entered into the agreement with GSR, it was acting for and on behalf of Cambridge Analytica. SCL Elections entered into a Services Agreement with Cambridge Analytica whereby SCL Elections agreed, among other things, to (a) acquire, for and on behalf of Cambridge Analytica, demographic, transactional, lifestyle, and behavioral data about consumers in target populations; (b) identify and build target voter lists; (c) apply research techniques to understand better the habits and daily lives of target voter groups; and (d) apply psychological profiles to target groups of voters. In a separate agreement, SCL Elections also agreed to license all of its intellectual property to Cambridge Analytica.
22. Cambridge Analytica and SCL Elections played a significant and direct role in the development and implementation of the GSRApp, as well as in the analysis of the data the GSRApp collected.
23. Among other things, Cambridge Analytica and SCL Elections revised the terms of use for the GSRApp from the original CPW Lab app.
24. Cambridge Analytica and SCL Elections also paid all costs—totaling over five hundred thousand dollars—related to implementing the GSRApp and analyzing the resulting data, including paying U.S.-based survey panel providers to specifically target Facebook users located in the United States to take the GSRApp surveys.

25. Cambridge Analytica and SCL Elections also inserted specific questions to be included in some of the surveys, including a number of questions about national security in the United States because this was a particular topic of interest for one of Cambridge Analytica's U.S.-based clients.
26. Cambridge Analytica and SCL Elections also directly communicated with the U.S.-based survey panel provider about the timing and focus of the GSRApp surveys.
27. Cambridge Analytica and SCL Elections also actively assisted in the matching of data harvested from App Users and Affected Friends located in the United States and Kogan's personality scores with U.S. voter registration records.
28. Nix was personally involved in the data harvesting Project. In addition to signing the June 2014 Agreement, he directly communicated and met with Kogan about the Project, personally authorized payment for Project-related costs, reviewed survey questions, specifically requested certain Facebook data or analysis, and directed internal actions within SCL Elections and Cambridge Analytica related to implementing the GSRApp, analyzing the GSRApp data, and using the GSRApp data for Cambridge Analytica clients in the United States.

The GSRApp Harvested Large Quantities of Facebook Profile Data from App Users and Affected Friends Through False and Deceptive Means

29. The GSRApp asked users to answer survey questions and consent to their Facebook profile data being collected, including public Facebook page "likes." Kogan then used the initial participants' survey responses and Facebook "likes" to train his algorithm so that it could predict the users' personality traits based solely on the Facebook "likes" data. This process, which was inspired by original research by others at the University of

Cambridge, allowed Kogan to provide personality scores for the Affected Friends, from whom he collected Facebook data but had no survey responses.

30. Kogan then assigned a confidence level to each personality score based on the number of public page “likes” for each U.S.-based App User and Affected Friend, generally requiring a Facebook user to have “liked” at least 10 public Facebook pages to be confident of the personality score.
31. Cambridge Analytica, Nix, and Kogan then conducted a small trial to determine how well Facebook profile information could be matched with U.S. voter records and information from other public databases. The Project would have little value to Cambridge Analytica and SCL Elections if the personality scores could not be matched with actual U.S. voters.
32. The initial trial was a success and showed that the Facebook profile data could be matched with U.S. voter records. Based on this success, Cambridge Analytica, Nix, and Kogan implemented the GSRApp on a wider scale by using the Qualtrics survey platform, based in Provo, Utah.
33. Qualtrics recruited U.S.-based consumers through four waves of survey panels over the summer of 2014. Each wave asked different questions of the participants such that Kogan’s personality scores covered a broad range of topics, including political enthusiasm, political orientation, frequency in voting, consistency in voting for the same political party, and views on particular controversial issues. Survey participants who completed the survey and authorized the GSRApp to harvest their Facebook profile information were paid a nominal fee of a few dollars for participating in the survey.
34. At the point in every survey in which the GSRApp asked U.S. consumers to authorize the app to collect their Facebook data, the GSRApp made the following representation:

In this part, we would like to download some of your Facebook data using our Facebook app. We want you to know that we will NOT download your name or any other identifiable information—we are interested in your demographics and likes.

35. Contrary to this representation, the GSRApp collected the Facebook User ID of those users who authorized it. A Facebook User ID is a persistent, unique identifier that connects individuals to their Facebook profiles. Cambridge Analytica, Nix, and Kogan included this representation after finding that half of the survey participants initially refused to grant the GSRApp permission to collect their Facebook profile data.
36. Cambridge Analytica’s representation, directly or indirectly, expressly or by implication, that the GSRApp did not collect any identifiable information from Facebook users who authorized the GSRApp when, in fact, the GSRApp collected identifiable information from such Facebook users, including their Facebook User ID, was a false or misleading statement in violation of Section 5 of the FTC Act.
37. Cambridge Analytica, Nix, and Kogan harvested a significant amount of Facebook profile data from App Users and Affected Friends located in the United States through the GSRApp. Specifically, they harvested the following Facebook profile data from App Users: Facebook User ID; gender; birthdate; location (“current city”); friends list; and “likes” of public Facebook pages. They harvested from Affected Friends their Facebook User ID; name; gender; birthdate; location (“current city”); and “likes” of public Facebook pages.
38. Over the course of the Project, Cambridge Analytica, Nix, and Kogan harvested Facebook profile data from approximately 250,000–270,000 App Users located in the United States, and harvested profile data from approximately 50–65 million Affected Friends, including at least 30 million identifiable U.S. consumers.

39. In January 2015, GSR and SCL Elections entered into a supplemental agreement (“January 2015 Agreement”) regarding additional data from the Project that Cambridge Analytica and SCL Elections wanted. Pursuant to the January 2015 Agreement, GSR provided data and analysis for App Users and Affected Friends for the remaining 39 U.S. states. GSR also provided a more limited set of personality analyses for these consumers than it had provided for consumers in the initial 11 U.S. states.
40. In April 2015, GSR and SCL Elections entered into an addendum to the January 2015 Agreement (“Addendum”), pursuant to which GSR provided Cambridge Analytica and SCL Elections with the underlying Facebook data used to “train” the algorithm that generated the OCEAN personality scores. GSR also provided Cambridge Analytica and SCL Elections with additional information about whether the App Users and Affected Friends included in the second set of data provided pursuant to the January 2015 Agreement had “likes” for about 500 specific pages identified by Cambridge Analytica and SCL Elections.
41. Nix, SCL Elections, and Cambridge Analytica reported to Kogan that they had very positive feedback from their clients and had expressed an interest in continuing to work with Kogan and GSR on other similar projects. While Kogan and GSR were interested in working on follow-up projects, the parties could not reach an agreement and discontinued their work together after GSR transferred the data agreed to in the Addendum in May 2015.
42. In December 2015, several news reports were published regarding Cambridge Analytica’s use of Facebook data. Following these reports, Facebook demanded that Kogan, Cambridge Analytica, and its SCL affiliates delete all Facebook data in their

possession. While Kogan and SCL Elections certified to Facebook that they had deleted the data obtained through the GSRApp, individuals or other entities still possess this data and/or data models based on this data.

Cambridge Analytica Deceptively Claimed it Participated in the EU-U.S. Privacy Shield Framework and that it Adhered to its Principles

43. The EU-U.S. Privacy Shield framework (“Privacy Shield”) was designed by the U.S. Department of Commerce (“Commerce”) and the European Commission to provide a mechanism for U.S. companies to transfer personal data outside of the EU that is consistent with the requirements of the European Union Directive on Data Protection. Enacted in 1995. The Directive set forth EU requirements for privacy and the protection of personal data.
44. Among other things, the Directive requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.
45. To satisfy the EU adequacy standard for certain commercial transfers, Commerce and the European Commission negotiated the EU-U.S. Privacy Shield framework, which went into effect in July 2016. The EU-U.S. Privacy Shield framework allows companies to transfer personal data lawfully from the EU to the United States.
46. To join the EU-U.S. Privacy Shield framework, a company must self-certify to Commerce that it complies with the Privacy Shield principles and related requirements that have been deemed to meet the EU’s adequacy standard. Companies under the

enforcement jurisdiction of the FTC, as well as the U.S. Department of Transportation, are eligible to join the EU-U.S. Privacy Shield framework.

47. Any company that voluntarily withdraws or lets its self-certification lapse must continue to apply the Privacy Shield principles to the personal information it received while a participant in Privacy Shield and affirm to Commerce on an annual basis of its commitment to do so, for as long as it retains such information.
48. Commerce maintains a public website, <https://www.privacyshield.gov/welcome>, where it posts the names of companies that have self-certified to the EU-U.S. Privacy Shield framework. The listing of companies, available at <https://www.privacyshield.gov/list>, indicates whether the company's self-certification is current.
49. A company under the FTC's jurisdiction that claims it has self-certified to the Privacy Shield principles, but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC's deception authority under Section 5 of the FTC Act.
50. On May 11, 2017, Cambridge Analytica joined Privacy Shield. While the Facebook data harvested through the GSRApp predated Cambridge Analytica's participation in Privacy Shield and therefore are not subject to its protections, Cambridge Analytica continued to collect Facebook and other data from or about U.S. and European consumers after it joined Privacy Shield.
51. Until at least November 27, 2018, Cambridge Analytica disseminated or caused to be disseminated privacy policies and statements on <https://cambridgeanalytica.org> including, but not limited to, the following statements that it participated in the EU-U.S. Privacy Shield framework and that it adhered to the Privacy Shield principles:

IS CAMBRIDGE ANALYTICA PART OF THE PRIVACY SHIELD FRAMEWORK?

Yes: Cambridge Analytica adheres to the EU-US Privacy Shield Principles for the transfer of EU data we use to provide our services, including the onward transfer liability provisions. With respect to personal data received or transferred pursuant to the Privacy Shield Framework, Cambridge Analytica is subject to the regulatory enforcement powers of the U.S. Federal Trade Commission. More information on the principles are available at the Privacy Shield website: <https://www.privacyshield.gov/>.

52. Cambridge Analytica, however, did not complete the steps necessary to renew its participation in Privacy Shield after its certification expired on or about May 11, 2018. After allowing Cambridge Analytica's certification to lapse, Cambridge Analytica continued to claim on its website that it was participating in Privacy Shield until at least November 27, 2018.
53. Cambridge Analytica's representation, directly or indirectly, expressly or by implication, that it was participating in Privacy Shield when, in fact, it had allowed its Privacy Shield certification to lapse, was a false or misleading statement in violation of Section 5 of the FTC Act.
54. Cambridge Analytica also failed to comply with the Privacy Shield principle that required Cambridge Analytica to affirm to Commerce, after its certification had lapsed, of its commitment to protect any personal information it had acquired while a participant in Privacy Shield for so long as it retained the data.
55. Cambridge Analytica's representation, directly or indirectly, expressly or by implication, that it was adhering to the Privacy Shield principles for the transfer of EU data when, in fact, Cambridge Analytica did not affirm to Commerce, after its certification had lapsed, of its commitment to protect any personal information it had acquired while a participant

in Privacy Shield for so long as it retained the data, was a false or misleading statement in violation of Section 5 of the FTC Act.

Dated: August 16, 2019

Respectfully submitted,

s/ Linda Holleran Kopp
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Federal Trade Commission
Bureau of Consumer Protection
Division of Privacy & Identity Protection
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Counsel Supporting the Complaint

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2019, I filed COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION and all accompanying documents electronically using the FTC's E-Filing System, which will send notification of such filing to:

April J. Tabor
Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the aforementioned documents to:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the aforementioned documents to:

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LaMonica Herbst & Maniscalco, LLP
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Bankruptcy Trustee for Cambridge Analytica LLC

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

August 16, 2019

By: s/ Linda Holleran Kopp
Attorney

Notice of Electronic Service

I hereby certify that on August 16, 2019, I filed an electronic copy of the foregoing Complaint Counsel's Motion for Summary Decision, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on August 16, 2019, I served via E-Service an electronic copy of the foregoing Complaint Counsel's Motion for Summary Decision, upon:

Linda Kopp
Federal Trade Commission
lkopp@ftc.gov
Complaint

Linda Kopp
Attorney