

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**FEDERAL TRADE COMMISSION, and  
JOHN J. HOFFMAN, Acting Attorney  
General of the State of New Jersey, and  
STEVE C. LEE, Acting Director of the New  
Jersey Division of Consumer Affairs,**

Plaintiff,

v.

**EQUILIV INVESTMENTS, a Limited  
Liability Company and RYAN  
RAMMINGER, an individual,**

Defendants.

Case No. \_\_\_\_\_

**STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND  
MONETARY JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and John J. Hoffman, Acting Attorney General of the State of New Jersey (“Attorney General”), and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs (“Director”) (collectively, “New Jersey” or “State of New Jersey”), filed a Complaint for a permanent injunction and other equitable and monetary relief in this matter against Equiliv Investments, LLC (“Equiliv” or “Prized”) and Ryan Ramminger (“Ramminger”) (collectively “Defendants”). The FTC brought its claims pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §53(b) and New Jersey brought its claims pursuant to the New Jersey Consumer Fraud Act (“CFA”), N.J.S.A. 56:8-1 et seq.

Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Final Order” or “Order”) to resolve all matters in dispute in this action between them.

**THEREFORE, IT IS ORDERED** as follows:

## **FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. 45, and unconscionable commercial practices, misrepresentations, false promises, and/or omissions of material fact in violation of N.J.S.A. 56:8-2 of the CFA, in connection with the advertising, marketing, promotion, distribution, offering for sale, and sale of mobile software applications (“Apps”) by uploading malicious software (“malware”) onto consumers’ mobile devices for the purposes of mining for virtual currencies.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Final Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. 2412, concerning the prosecution of this action through the date of this Final Order, and agrees to bear their own costs and attorneys’ fees.
5. The parties waive all rights to appeal or otherwise challenge or contest the validity of this Final Order.

## **DEFINITIONS**

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

6. **“App”** means any software application or code that can be transmitted to a mobile device. “App” shall also include any software referred to by the Company as an “App” or “Mobile App” in the course of its own communications or business practices.

7. **“Covered Information”** means 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, 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 state-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 static Internet Protocol (“IP”) address, a mobile device ID, or processor serial number; (j) precise geolocation data of an individual or mobile device, including but not limited to GPS-based, WiFi-based, or cell-based location information (“geolocation information”); (k) an authentication credential, such as a username and password; or (l) any other communications or content stored on or about a consumer’s mobile device.

8. **“Defendants”** means Equiliv and its successors and assigns and Rammingier.

9. **“Prized App”** means the App, Prized, offered by Defendants to consumers.

10. **“Software”** means any file, program, application, content, code or set of instructions that controls, directs, or assists in the operation of a computer or other electronic device and/or instructs a computer or other electronic devices as to what tasks to perform.

## **ORDER**

### **I. PROHIBITIONS ON MISREPRESENTATIONS IN CONNECTION THE MARKETING AND SALE OF SOFTWARE**

**IT IS ORDERED** that Defendants, Defendants’ officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly making material misrepresentations in connection with the marketing, distributing, offering for sale, sale, or

installation of any mobile apps and software, including but not limited to misrepresenting, expressly or by implication that: (1) a mobile app or any other software does not contain malware, spyware, time bombs, or viruses; or (2) mobile app or software users are able to earn points, prizes, rewards, or other benefits.

## **II. PROHIBITIONS ON THE MARKETING AND SALE OF MALICIOUS SOFTWARE**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are hereby permanently restrained and enjoined from, directly or indirectly, engaging in or participating in the marketing, distributing, offering for sale, sale, or installation of any mobile apps or software that uses or interferes with a consumer's computer or other electronic device without consumers' express authorization, or for any purpose other than that specifically authorized, including but not limited to software that:

- A. Damages, disables, or accesses without consumers' express authorization or in excess of consumers' authorization, any computer or other electronic device;
- B. Uses the computing resources of consumers' computer or other electronic device without consumers' express authorization or in excess of consumers' authorization, including but not limited to mining for virtual currencies; or
- C. Stores, maintains, or otherwise exchanges virtual currencies without consumers' express authorization or in excess of consumers' authorization.

## **III. STATE MONETARY RELIEF**

**IT IS FURTHER ORDERED** that:

- A. Defendants have also agreed to pay to the State of New Jersey Fifty Thousand and 00/100 Dollars (\$50,000.00) pursuant to N.J.S.A. 56:8-13 ("State Monetary Relief").

B. Out of the State Monetary Relief, Defendants shall pay Five Thousand Two Hundred and 00/100 Dollars (\$5,200.00) to the State of New Jersey on, or before, the entry of this Order.

C. The remaining Forty-Four Thousand Eight Hundred and 00/100 Dollars (\$44,800.00) from the State Monetary Relief shall be suspended and automatically vacated within three (3) years of the entry of this Order, provided:

1. Defendants comply with the restraints and conditions set forth in this Order; and
2. Defendants do not engage in any acts or practices in violation of the CFA.

D. In the event Defendants fail to comply with the restraints and conditions of this Order, the entire balance of the suspended State Monetary Relief shall be immediately due and payable upon written notice by the State of New Jersey. In any such notice, however, the State of New Jersey shall provide Defendants with the specific details of Defendants' alleged noncompliance and Defendants shall be afforded a thirty (30) day period to cure any such noncompliance.

E. All payments made in satisfaction of the State Monetary Relief shall be made by certified or cashier's check, money order, wire transfer or credit card made payable to the "New Jersey Division of Consumer Affairs" and forwarded to:

Van Mallett, Case Tracking Management  
Division of Consumer Affairs  
124 Halsey Street, 7<sup>th</sup> Floor  
P.O. Box 45025  
Newark, New Jersey 07102

F. Upon making any payment to the State of New Jersey, Defendants shall be immediately divested of any interest in, or ownership of, the monies paid. All interest in such

monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of New Jersey pursuant to the terms herein.

#### **IV. DESTRUCTION OF AFFECTED CONSUMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants and their representatives are hereby permanently restrained and enjoined from directly or indirectly:

A. Disclosing, using, or benefitting from Covered Information that any Defendant obtained prior to entry of this Order in connection with the Prized App; and

B. Failing to destroy such Covered Information in all forms in their possession, custody, or control within 30 days after entry of this Order.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

#### **V. ORDER ACKNOWLEDGMENT**

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

A. Defendants, within 7 days of entry of this Order, must submit to the Commission and the State of New Jersey an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Defendants must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in the advertising, marketing, promotion, distribution, offering for sale, or sale of any App, and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7

days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendants deliver a copy of this Order, Defendants must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

## **VI. COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that Defendants make timely submissions to the Commission and the State of New Jersey:

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

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives Plaintiffs may use to communicate with Defendants; (b) identify all of Defendants' businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business that engages in the advertising, marketing, promotion, distribution, offering for sale, or sale of any software, including apps and the involvement of any other Defendant (which Individual Defendants must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to Plaintiffs.

2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether

as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control and any ownership.

B. For 20 years following entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission and New Jersey notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America



that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The subject line must begin: FTC v. Equiliv, LLC.

F. Except as otherwise provided herein, any submissions to the State of New Jersey pursuant to this Order shall be sent by a nationally recognized courier service that provides for tracking services and identification of the person signing for the documents to: Glenn T. Graham, Deputy Attorney General, Office of the Attorney General, Division of Law, 124 Halsey Street, 5<sup>th</sup> Floor, Newark, New Jersey 07101.

## **VII. RECORDKEEPING**

**IT IS FURTHER ORDERED** that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, in connection with the advertising, marketing, promotion, distribution, offering for sale, or sale of any software or app, Defendants must maintain the following records:

A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person’s: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;

C. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to Plaintiffs; and

E. A copy of each terms of service, privacy policy, advertisement or other marketing material.

### **VIII. COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Order, including any failure to transfer any assets as required by this Order:

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

B. For matters concerning this Order, Plaintiffs are authorized to communicate directly with Defendants. Defendants must permit representatives of the Commission or New Jersey to interview any employee or other person affiliated with Defendants who has agreed to such an interview. The person interviewed may have counsel present.

C. Plaintiffs may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior

notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

**IX. RETENTION OF JURISDICTION**

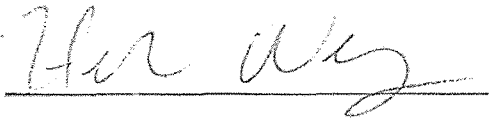
**IT IS FURTHER ORDERED** that this Court retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**UNITED STATES DISTRICT JUDGE**

SO STIPULATED AND AGREED BY:

FOR PLAINTIFFS:  
FEDERAL TRADE COMMISSION



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Federal Trade Commission  
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Washington, DC 20580  
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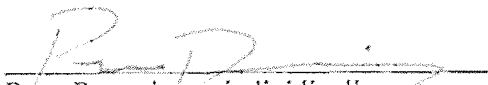


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FOR DEFENDANTS:

  
Ryan Ramminger, as an officer of Equiliv LLC

Date: 4/23/2015

  
Ryan Ramminger, individually

Date: 4/23/2015