

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Terrell McSweeney

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)	DOCKET No. C-4564
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)	DECISION AND ORDER
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The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of the draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45 *et seq.*;

The Respondent and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondent that he neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in the Consent Agreement, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the FTC Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons, now in further conformity with the procedure prescribed in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following Order:

1. Respondent Craig Brittain owned and operated the website www.isanybodydown.com and has his principal office or place of business in Colorado Springs, CO 80920.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, “Respondent” shall mean Craig Brittain, individually.
2. “Commerce” shall mean as it is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
3. “Covered Websites” shall mean www.isanybodydown.com, www.obamanudes.com, www.takedownlawyer.com, www.takedownhammer.com, www.takedownhammer.net, and www.takedownhammer.org.
4. “Intimate parts” shall mean the naked genitals, pubic area, buttocks, or female nipple.
5. “Personal information” shall mean individually identifiable information from or about an individual, including but not limited to: (1) a first and last name; (2) a home or other physical address, including street name and name of city or town; (3) an email address or other online contact information, such as an instant messaging user identifier or a screen name; (4) a telephone number; (5) date of birth; or (6) a photograph or video containing an individual’s image.

I.

PROHIBITION ON DISSEMINATION OF VIDEOS OR PHOTOGRAPHS WITHOUT CONSENT

IT IS ORDERED that Respondent and Respondent’s officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this order, whether acting directly or indirectly, in connection with the marketing, promoting, or offering for sale of any good or service, is permanently restrained and enjoined from disseminating, through a website or online service, a video or photograph of an individual with his or her intimate parts exposed without:

- A. clearly and prominently disclosing directly to that individual, and not as part of a “privacy policy,” “terms of use,” or similar document posted on a website or online service, that Respondent will disseminate the video or photograph for commercial gain and through a website or online service; and

- B. obtaining affirmative express consent in writing from the individual for such dissemination.

**II.
PROHIBITION ON MISREPRESENTATIONS**

IT IS FURTHER ORDERED that Respondent, and Respondent's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this order, whether acting directly or indirectly, in connection with the marketing, promoting, or offering for sale any good or service, is permanently restrained and enjoined from misrepresenting through a website or online service, expressly or by implication, any material fact, including but not limited to:

- A. Respondent's collection, use, disclosure, or deletion of personal information;
- B. Respondent's identity; and
- C. the identity of those providing content or sponsoring advertising displayed on or through a website or online service.

**III.
DISPOSITION OF PERSONAL INFORMATION**

IT IS FURTHER ORDERED that Respondent is permanently restrained and enjoined from directly or indirectly:

- A. disclosing, using, transferring, or benefitting from personal information obtained prior to entry of this Order in connection with or displayed on any of the Covered Websites; and
- B. failing to destroy such personal information in all forms in Respondent's possession, custody, or control within 30 days after entry of this Order.

Provided, however, that such personal 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.

IV.

IT IS FURTHER ORDERED that Respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying a print or electronic copy of:

- A. affirmative express written consent obtained from each individual whose intimate parts are exposed in a photograph or video shared by Respondent on a website or through an online service;
- B. all representations about Respondent's collection, use, disclosure, or sharing of personal information in connection with marketing, promoting, or offering for sale any good or service that involves the collecting or posting of personal information on a website or online service, including but not limited to the terms of use, frequently-asked questions, and privacy policies of such website or online service, for a period of five (5) years from the date of preparation or dissemination, whichever is later;
- C. all consumer complaints and content removal requests received by or on behalf of Respondent relating to Respondent's collection, use, disclosure, or sharing of personal information, for a period of five (5) years from the date received;
- D. all responses to the complaints and requests set forth in Part IV.C, for a period of five (5) years from the date sent;
- E. copies of all subpoenas and other communications with law enforcement entities or personnel relating to Respondent's collection, use, disclosure, or sharing of personal information in connection with operating a website or online service, for a period of five (5) years from the date received or sent; and
- F. all documents prepared by or on behalf of Respondent that contradict, qualify, or call into question Respondent's compliance with this order, for a period of five (5) years from the date received or created.

V.

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this order to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current personnel within thirty (30) days after service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent 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.

VI.

IT IS FURTHER ORDERED that Respondent, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include Respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or 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 N.W., Washington, D.C. 20580. The subject line must begin: *In the Matter of Craig Brittain*, FTC File No. 132 3120.

VII.

IT IS FURTHER ORDERED that Respondent 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 his compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, Respondent shall submit an additional true and accurate written report.

VIII.

This order will terminate on December 28, 2035, or twenty (20) years from the most recent date that the United States or the 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 fewer 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 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 as to such Respondent 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.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: December 28, 2015