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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Federal Trade Commission,  
Plaintiff,

v.

Sitesearch Corporation, dba LeapLab, a  
Nevada corporation; et al.,  
Defendants.

No. CV-14-02750-PHX-NVW

**ORDER**

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC and Defendant John Ayers have stipulated to entry of this Final Order for Permanent Injunction and Settlement of Claims (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED:

**Findings**

1. This is an action by the FTC instituted under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). The Complaint charges that Defendant participated in unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the disclosure of consumers’ Sensitive Personal Information. The Complaint seeks both permanent injunctive relief and equitable monetary relief for

- 1 Defendant's unfair acts or practices as alleged therein.
- 2 2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it
- 3 has requested, and the Complaint states a claim upon which relief can be granted
- 4 against Defendant.
- 5 3. This Court has jurisdiction over the subject matter of this case and has jurisdiction
- 6 over Defendant. Venue in the District of Arizona is proper.
- 7 4. The activities of Defendant, as alleged in the Complaint, are in or affecting
- 8 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
- 9 5. Defendant neither admits nor denies any of the allegations in the Complaint,
- 10 except as specifically stated in this Order. Only for purposes of this action,
- 11 Defendant admits the facts necessary to establish jurisdiction.
- 12 6. Defendant waives all rights to appeal or otherwise challenge or contest the validity
- 13 of this Order. Defendant also waives any claim that it may have held under the
- 14 Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this
- 15 action to the date of this Order. The FTC and Defendant each shall bear its own
- 16 costs and attorneys' fees.
- 17 7. This action and the relief awarded herein are in addition to, and not in lieu of,
- 18 other remedies as may be provided by law, including both civil and criminal
- 19 remedies.
- 20 8. Defendant filed a petition for relief under Chapter 7 of the Bankruptcy Code on or
- 21 or about June 13, 2014. *In re John Ayers and Jennifer Ayers*, No. 2:14-bk-09181-
- 22 PS (Bankr. D. Ariz.) ("Ayers Bankruptcy Case"). Plaintiff's prosecution of this
- 23 action, including entry of a money judgment and the enforcement of a judgment
- 24 (other than a money judgment) obtained in this action are actions to enforce the
- 25 Plaintiff's police or regulatory power. As a result, if the Ayers Bankruptcy Case is
- 26 pending as of the date of entry of this Order, these actions are excepted from the
- 27 automatic stay pursuant to 11 U.S.C. § 362(b)(4).
- 28 9. With respect to any discharge granted to Defendant in the Ayers Bankruptcy Case,

1 this court has concurrent jurisdiction to grant the exception from discharge relief  
2 set forth in Section V (Monetary Judgment) of this Order pursuant to 11 U.S.C. §  
3 523(a)(3)(B).

- 4 10. Entry of this Order is in the public interest.

5 **Definitions**

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

- 7 1. **“Corporate Defendants”** means Sitemsearch Corporation, Leads Company, LLC,  
8 and LeapLab, LLC and their successors and assigns.
- 9 2. **“Defendant”** means John Ayers.
- 10 3. **“Financial Product or Service”** means any product, service, plan, or program  
11 represented, expressly or by implication, to:  
12 A. provide any consumer, arrange for any consumer to receive, or assist  
13 any consumer in receiving, a loan or other extension of credit;  
14 B. provide any consumer, arrange for any consumer to receive, or assist  
15 any consumer in receiving, credit, debit, or stored value cards;  
16 C. improve, repair, or arrange to improve or repair, any consumer’s  
17 credit record, credit history, or credit rating; or  
18 D. provide advice or assistance to improve any consumer’s credit  
19 record, credit history, or credit rating.
- 20 4. **“Person”** means a natural person, organization, or other legal entity, including a  
21 corporation, partnership, proprietorship, association, cooperative, or any other  
22 group or combination acting as an entity.
- 23 5. **“Sensitive Personal Information”** means any of the following about a consumer:  
24 (a) Social Security number; (b) financial institution account number; (c) credit or  
25 debit card information; or (d) any other information by which a consumer’s  
26 financial account can be accessed, or by which a consumer might be charged for  
27 goods or services, including through third parties such as telecommunications  
28 carriers.

1 **Order**

2 **I. Prohibition on the Disclosure of Sensitive Personal Information**

3 IT IS THEREFORE ORDERED that Defendant and his agents, servants,  
4 employees, and attorneys, and all other persons in active concert or participation with any  
5 of them, who receive actual notice of this Order, whether acting directly or indirectly, are  
6 hereby permanently restrained and enjoined from, or assisting others engaged in, selling,  
7 transferring, or otherwise disclosing the Sensitive Personal Information of a consumer  
8 (other than the Defendant and his immediate family) to any Person, except as otherwise  
9 provided in Sections IV or IX of this Order; *provided, however*, that this Section I shall  
10 not prohibit the Defendant from transferring or otherwise disclosing a consumer's  
11 Sensitive Personal Information to the extent necessary to process payment for any  
12 product or service sold by the Defendant directly to that consumer, and for which the  
13 Defendant has the consumer's express, informed consent for that sale.

14 **II. Prohibited Misrepresentations Relating to Financial Products or Services**

15 IT IS FURTHER ORDERED that Defendant and his agents, servants, employees,  
16 and attorneys, and all other persons in active concert or participation with any of them,  
17 who receive actual notice of this Order, whether acting directly or indirectly, in  
18 connection with the advertising, marketing, promotion, offering for sale, or selling of any  
19 Financial Product or Service, are hereby permanently restrained and enjoined from  
20 misrepresenting or assisting others in misrepresenting, expressly or by implication:

- 21 A. The likelihood that any Person will obtain a loan or other extension  
22 of credit; and  
23 B. The terms or rates that are available for any loan or other extension  
24 of credit.

25 **III. Prohibited Misrepresentations Relating to All Products or Services**

26 IT IS FURTHER ORDERED that Defendant and his agents, servants, employees,  
27 and attorneys, and all other persons in active concert or participation with any of them,  
28 who receive actual notice of this Order, whether acting directly or indirectly, in

1 connection with the advertising, marketing, promotion, offering for sale, or selling of any  
2 product or service, are hereby permanently restrained and enjoined from misrepresenting  
3 or assisting others in misrepresenting, expressly or by implication:

4 A. That a consumer has authorized or otherwise consented to the  
5 purchase of a product or service;

6 B. The likelihood of any particular outcome or result from any product  
7 or service;

8 C. The nature or terms of any refund, cancellation, exchange, or  
9 repurchase policy, including, but not limited to, the likelihood of a  
10 consumer obtaining a full or partial refund, or the circumstances in which a  
11 full or partial refund will be provided to the consumer; and

12 D. Any other fact material to consumers concerning any product or  
13 service, such as: the total costs; any material restrictions, limitations, or  
14 conditions; or any material aspect of its performance, efficacy, nature, or  
15 central characteristics.

16 **IV. Consumer Information**

17 IT IS FURTHER ORDERED that Defendant and his agents, servants, employees,  
18 and attorneys, and all other persons in active concert or participation with any of them,  
19 who receive actual notice of this Order, whether acting directly or indirectly, are  
20 permanently restrained and enjoined from directly or indirectly:

21 A. Failing to provide sufficient consumer information to enable the FTC to  
22 administer efficiently consumer redress. If a representative of the FTC  
23 requests in writing any information related to redress, Defendant must  
24 provide it, in the form prescribed by the FTC, within 14 days.

25 B. Disclosing, using, or benefitting from consumer information, including the  
26 name, address, telephone number, email address, social security number,  
27 other identifying information, or any data that enables access to a  
28 consumer's account (including a credit card, bank account, or other

1 financial account) of any person that any defendant obtained prior to entry  
2 of this Order in connection with the marketing or offering of payday loans  
3 or other extensions of credit.

- 4 C. Failing to destroy such consumer information in all forms in Defendant's  
5 possession, custody, or control within thirty (30) days after entry of this  
6 order.

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

10 **V. Monetary Judgment**

11 IT IS FURTHER ORDERED that:

- 12 A. Judgment in the amount of four million, one hundred twenty four thousand,  
13 seven hundred ten dollars (\$4,124,710) is entered in favor of the FTC  
14 against Defendant as equitable monetary relief. The Judgment is suspended  
15 subject to the Subsections below.
- 16 B. The Commission's agreement to the suspension of the judgment is  
17 expressly premised upon the truthfulness, accuracy, and completeness of  
18 Defendant's sworn financial statements and related documents  
19 (collectively, "financial representations") submitted to the Commission,  
20 including the Financial Statement of Defendant John Ayers signed on  
21 September 13, 2015, including the attachments;
- 22 C. The suspension of the judgment will be lifted as to Defendant if, upon  
23 motion by the Commission, the Court finds that Defendant failed to  
24 disclose any material asset, materially misstated the value of any asset, or  
25 made any other material misstatement or omission in the financial  
26 representations identified above.
- 27 D. If the suspension of the judgment is lifted, the judgment becomes  
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1 immediately due as to Defendant in the amount specified in Subsection  
2 V(A), which the parties stipulate to only for purposes of this Section  
3 represents the consumer injury, less any payment previously made pursuant  
4 to this Section, plus interest computed from the date of entry of this Order.

5 E. All money paid to the FTC pursuant to this Order may be deposited into a  
6 fund administered by the FTC or its designee to be used for equitable relief,  
7 including consumer redress and any attendant expenses for the  
8 administration of any redress funds. If a representative of the FTC decides  
9 that direct redress to consumers is wholly or partially impracticable or  
10 money remains after redress is completed, the FTC may apply any  
11 remaining money for such other equitable relief (including consumer  
12 information remedies) as the FTC determines to be reasonably related to  
13 the practices alleged in the Complaint. Any money not used for such  
14 equitable relief is to be deposited to the United States Treasury as equitable  
15 disgorgement. Defendant has no right to challenge any actions the FTC or  
16 its representatives may take pursuant to this Subsection.

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

20 G. The facts alleged in the Complaint will be taken as true, without further  
21 proof, in any subsequent civil litigation, by or on behalf of the FTC in a  
22 proceeding to enforce its rights to any payment or monetary judgment  
23 pursuant to this Order, such as a nondischargeability complaint in any  
24 bankruptcy case.

25 H. Based on the allegations set forth in the Complaint, which shall be taken as  
26 true for purposes of this Section, Defendant stipulates that the Judgment is  
27 excepted from any discharge granted to Defendant in the Ayers Bankruptcy  
28 Case pursuant to 11 U.S.C. § 523(a)(3)(B), (4) and (6).

1 I. Defendant acknowledges that his Taxpayer Identification Numbers (Social  
2 Security Numbers or Employer Identification Numbers), which Defendant  
3 previously submitted to the FTC, may be used for collecting and reporting  
4 on any delinquent amount arising out of this Order, in accordance with 31  
5 U.S.C. § 7701.

6 J. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §  
7 1681b(a)(1), any consumer reporting agency may furnish a consumer report  
8 concerning Defendant to the FTC, which shall be used for purposes of  
9 collecting and reporting on any delinquent amount arising out of this Order.

10 **VI. Order Acknowledgments**

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

13 A. Within 7 days of entry of this Order, Defendant must submit to the FTC an  
14 acknowledgment of receipt of this Order sworn under penalty of perjury.

15 B. For 5 years after entry of this Order, Defendant, for any business that  
16 Defendant, individually or collectively with any Corporate Defendant, is  
17 the majority owner or controls directly or indirectly, must deliver a copy of  
18 this Order to: (1) all principals, officers, directors, and LLC managers and  
19 members; (2) all employees, agents, and representatives who participate in  
20 conduct related to the subject matter of this Order; and (3) any business  
21 entity resulting from any change in structure as set forth in the Section  
22 entitled Compliance Reporting. Delivery must occur within 7 days of entry  
23 of this Order for current personnel. For all others, delivery must occur  
24 before they assume their responsibilities.

25 C. From each individual or entity to which Defendant delivered a copy of this  
26 Order, Defendant must obtain, within 30 days, a signed and dated  
27 acknowledgment of receipt of this Order.  
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1 **VII. Compliance Reporting**

2 IT IS FURTHER ORDERED that Defendant make timely submissions of the  
3 following to the FTC:

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

6 1. Defendant must: (a) identify the primary physical, postal, and email  
7 address and telephone number, as designated points of contact,  
8 which representatives of the FTC may use to communicate with  
9 Defendant; (b) identify all of Defendant's businesses by all of their  
10 names, telephone numbers, and physical, postal, email, and Internet  
11 addresses; (c) describe the activities of each business, including the  
12 products and services offered, the means of advertising, marketing,  
13 and sales, and the involvement of any other defendant; (d) describe  
14 in detail whether and how Defendant is in compliance with each  
15 Section of this Order; and (e) provide a copy of each Order  
16 Acknowledgment obtained pursuant to this Order, unless previously  
17 submitted to the FTC;

18 2. Additionally, Defendant must: (a) identify all telephone numbers  
19 and all physical, postal, email and Internet addresses, including all  
20 residences; (b) identify all business activities, including any business  
21 for which Defendant performs services whether as an employee or  
22 otherwise and any entity in which such Defendant has any  
23 ownership interest; and (c) describe in detail Defendant's  
24 involvement in each such business, including title, role,  
25 responsibilities, participation, authority, control, and any ownership.

26 B. For 10 years following entry of this Order, Defendant must submit a  
27 compliance notice, sworn under penalty of perjury, within 14 days of any  
28 change in the following:

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1. Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that 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, 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 Defendant performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

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

D. Any submission to the FTC required by this Order to be sworn to 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 an FTC representative in writing, all submissions to the FTC 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 NW, Washington, DC 20580. The subject line must begin: *FTC v. Sitemsearch, et al.*

1 **VIII. Recordkeeping**

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

- 5 A. Proof of consumers' express, informed consent to have their Sensitive  
6 Personal Information transferred or disclosed, which includes the  
7 consumer's name, and, if collected, phone number, and address; the  
8 manner, time, place, and method of the authorization; and sufficient data to  
9 readily show the complete consumer experience, including an audio  
10 recording of the entirety of any telemarketing transaction;
- 11 B. Accounting records showing the revenues from all goods or services sold,  
12 all costs incurred in generating those revenues, and the resulting net profit  
13 or loss;
- 14 C. Personnel records showing, for each person providing services, whether as  
15 an employee or otherwise, that person's: name, addresses, and telephone  
16 numbers; job title or position; dates of service; and, if applicable, the reason  
17 for termination;
- 18 D. Complaints and refund requests, whether received directly or indirectly,  
19 such as through a third party, and any response;
- 20 E. All records necessary to demonstrate full compliance with each provision  
21 of this Order, including all submissions to the FTC; and
- 22 F. A copy of each unique advertisement or other marketing material.

23 **IX. Compliance Monitoring**

24 IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's  
25 compliance with this Order, including the financial representations upon which the  
26 judgment was suspended:

- 27 A. Within 14 days of receipt of a written request from a representative of the  
28 FTC, Defendant must: submit additional compliance reports or other

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requested information, which must be sworn to under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The FTC is 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, the FTC is authorized to communicate directly with Defendant. Defendant must permit representatives of the FTC to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

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

**X. Cooperation**

IT IS FURTHER ORDERED that Defendant must fully cooperate with representatives of the FTC in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendant must provide truthful and complete information, evidence, and testimony. Defendant must appear for interviews, discovery, hearings, trials, and any other proceedings that an FTC representative may reasonably request upon 5 days written notice, or other

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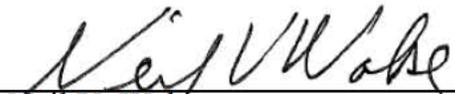
1 reasonable notice, at such places and times as an FTC representative may designate,  
2 without service of a subpoena.

3 **XI. Retention of Jurisdiction**

4 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for  
5 purposes of construction, modification, and enforcement of this Order.

6 IT IS SO ORDERED.

7 Dated this 5th day of February, 2016.

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10 Neil V. Wake  
11 United States District Judge  
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