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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

**FINAL JUDGMENT AND ORDER
FOR INJUNCTIVE AND OTHER
RELIEF**

On December 22, 2014, Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) brought this action for injunctive and equitable monetary relief against Sitesearch Corp., formerly known as LeapLab Corp. (“Defendant”), for unfair and deceptive acts or practices related to its sale of consumer payday loan applications containing consumer financial account and Social Security numbers and other sensitive personal information to non-lenders, without the consumers’ knowledge or consent. In the Complaint (Doc. 1), the FTC asserted that Defendant’s activities violated Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), (the “FTC Act”), and requested injunctive and equitable monetary relief against Defendant pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

The FTC served Defendant with the Summons and Complaint on December 24, 2015. (Doc. 9 at 6). On February 12, 2015, after Defendant failed to file a timely answer, the FTC moved for default. (Docs. 12, 13). On February 13, 2015, the Clerk

1 entered default. (Doc. 15). On December 3, 2015, the FTC filed a motion for default
2 judgment against Defendant pursuant to Rule 55(b) of the Federal Rules of Civil
3 Procedure. On December 10, 2015, the Court granted the FTC's motion for default
4 judgment. The Court now enters this Final Judgment and Order for Injunctive and Other
5 Relief ("Order") against Defendant.

6 Findings

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

13 2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief
14 it has requested.

15 3. This Court has jurisdiction over the subject matter of this case and has
16 jurisdiction over Defendant. Venue in the District of Arizona is proper.

17 4. The activities of Defendant, as alleged in the Complaint, are in or affecting
18 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

19 5. The Commission's complaint states a claim upon which relief may be granted
20 under Section 5 of the FTC Act, 15 U.S.C. § 45.

21 6. The Defendant did not answer the Complaint.

22 7. The Clerk of Court entered default against Defendant on February 13, 2015.

23 8. By virtue of the Court's order granting the FTC's motion for default judgment,
24 the Defendant is liable for injunctive and equitable monetary relief for violations of
25 Section 5 of the FTC Act.

26 9. No hearing is necessary for the Court to make a determination with respect to
27 equitable monetary relief, as the consumer injury is established through undisputed
28 evidence already submitted to the Court.

1 account can be accessed, or by which a consumer might be charged for goods or services,
2 including through third parties such as telecommunications carriers.

3 **ORDER**

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

5 IT IS THEREFORE ORDERED that Defendant is hereby permanently restrained
6 and enjoined from, or assisting others engaged in, selling, transferring, or otherwise
7 disclosing a consumer's Sensitive Personal Information to any Person, except as
8 otherwise provided in Sections IV or IX of this Order; provided, however, that this
9 Section I shall not prohibit the Defendant from transferring or otherwise disclosing a
10 consumer's Sensitive Personal Information to the extent necessary to process payment for
11 any product or service sold by the Defendant directly to that consumer and for which the
12 Defendant has the consumer's express, informed consent for that sale.

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

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

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

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

25 IT IS FURTHER ORDERED that Defendant and its officers, agents, employees,
26 and attorneys, and those persons or entities in active concert or participation with any of
27 them who receive actual notice of this Order, whether acting directly or indirectly, in
28 connection with the advertising, marketing, promotion, offering for sale, or selling of any

1 product or service, are hereby permanently restrained and enjoined from misrepresenting
2 or assisting others in misrepresenting, expressly or by implication:

- 3 A. That a consumer has authorized or otherwise consented to the purchase of a
4 product or service;
- 5 B. The likelihood of any particular outcome or result from a product or
6 service;
- 7 C. The nature or terms of any refund, cancellation, exchange, or repurchase
8 policy, including, but not limited to, the likelihood of a consumer obtaining
9 a full or partial refund, or the circumstances in which a full or partial refund
10 will be provided to the consumer; and
- 11 D. Any other fact material to consumers concerning any product or service,
12 such as: the total costs; any material restrictions, limitations, or conditions;
13 or any material aspect of its performance, efficacy, nature, or central
14 characteristics.

15 **IV. Consumer Information**

16 IT IS FURTHER ORDERED that Defendant and its officers, agents, employees,
17 and attorneys, and those Persons or entities in active concert or participation with any of
18 them who receive actual notice of this Order, whether acting directly or indirectly, are
19 permanently restrained and enjoined from directly or indirectly:

- 20 A. Failing to provide sufficient consumer information to enable the FTC to
21 administer efficiently consumer redress. If a representative of the FTC
22 requests in writing any information related to redress, Defendant must
23 provide it, in the form prescribed by the FTC, within 14 days.
- 24 B. Disclosing, using, or benefitting from consumer information, including the
25 name, address, telephone number, email address, social security number,
26 other identifying information, or any data that enables access to a
27 consumer's account (including a credit card, bank account, or other
28 financial account) of any person that any defendant obtained prior to entry

1 of this Order in connection with the marketing or offering of payday loans
2 or other extensions of credit.

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

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

9 **V. Monetary Judgment**

10 IT IS FURTHER ORDERED that:

- 11 A. Judgment in the amount of four million, one hundred twenty four thousand,
12 seven hundred ten dollars (\$4,124,710) is entered in favor of the FTC
13 against Defendant as equitable monetary relief.
- 14 B. All money paid to the FTC pursuant to this Order may be deposited into a
15 fund administered by the FTC or its designee to be used for equitable relief,
16 including consumer redress and any attendant expenses for the
17 administration of any redress funds. If a representative of the FTC decides
18 that direct redress to consumers is wholly or partially impracticable or
19 money remains after redress is completed, the FTC may apply any
20 remaining money for such other equitable relief (including consumer
21 information remedies) as the FTC determines to be reasonably related to
22 the practices alleged in the Complaint. Any money not used for such
23 equitable relief is to be deposited to the United States Treasury as equitable
24 disgorgement. Defendant has no right to challenge any actions the FTC or
25 its representatives may take pursuant to this Subsection.
- 26 C. Defendant acknowledges that its Taxpayer Identification Numbers (Social
27 Security Numbers or Employer Identification Numbers), which Defendant
28 must submit to the Commission within ten (10) days of entry of this Order,

1 may be used for collecting and reporting on any delinquent amount arising
2 out of this Order, in accordance with 31 U.S.C. § 7701.

3 **VI. Order Acknowledgments**

4 IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt
5 of this Order:

- 6 A. Within 7 days of entry of this Order, Defendant must submit to the FTC an
7 acknowledgment of receipt of this Order sworn under penalty of perjury.
- 8 B. For 5 years after entry of this Order, Defendant must deliver a copy of this
9 Order to: (1) all principals, officers, directors, and LLC managers and
10 members; (2) all employees, agents, and representatives who participate in
11 conduct related to the subject matter of this Order; and (3) any business
12 entity resulting from any change in structure as set forth in the Section
13 entitled Compliance Reporting. Delivery must occur within 7 days of entry
14 of this Order for current personnel. For all others, delivery must occur
15 before they assume their responsibilities.
- 16 C. From each individual or entity to which Defendant delivered a copy of this
17 Order, Defendant must obtain, within 30 days, a signed and dated
18 acknowledgment of receipt of this Order.

19 **VII. Compliance Reporting**

20 IT IS FURTHER ORDERED that Defendant make timely submissions of the
21 following to the FTC:

- 22 A. One year after entry of this Order, Defendant must submit a compliance
23 report, sworn under penalty of perjury. In that report, Defendant must: (a)
24 identify the primary physical, postal, and email address and telephone
25 number, as designated points of contact, which representatives of the FTC
26 may use to communicate with Defendant; (b) identify all of Defendant's
27 businesses by all of their names, telephone numbers, and physical, postal,
28 email, and Internet addresses; (c) describe the activities of each business,

1 including the products and services offered, the means of advertising,
2 marketing, and sales, and the involvement of any other defendant; (d)
3 describe in detail whether and how Defendant is in compliance with each
4 Section of this Order; and (e) provide a copy of each Order
5 Acknowledgment obtained pursuant to this Order, unless previously
6 submitted to the FTC;

- 7 B. For 20 years following entry of this Order, Defendant must submit a
8 compliance notice, sworn under penalty of perjury, within 14 days of any
9 change in the following: (a) any designated point of contact; or (b) the
10 structure of Defendant or any entity that Defendant has any ownership
11 interest in or directly or indirectly controls that may affect compliance
12 obligations arising under this Order, including: creation, merger, sale, or
13 dissolution of the entity or any subsidiary, parent, or affiliate that engages
14 in any acts or practices subject to this Order.
- 15 C. Defendant must submit to the FTC notice of the filing of any bankruptcy
16 petition, insolvency proceeding, or any similar proceeding by or against
17 Defendant within 14 days of its filing.
- 18 D. Any submission to the FTC required by this Order to be sworn to under
19 penalty of perjury must be true and accurate and comply with 28 U.S.C. §
20 1746, such as by concluding: “I declare under penalty of perjury under the
21 laws of the United States of America that the foregoing is true and correct.
22 Executed on:_____” and supplying the date, signatory’s full name, title (if
23 applicable), and signature.
- 24 E. Unless otherwise directed by an FTC representative in writing, all
25 submissions to the FTC pursuant to this Order must be emailed to
26 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service)
27 to: Associate Director for Enforcement, Bureau of Consumer Protection,
28

1 Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington,
2 DC 20580. The subject line must begin: FTC v. Sitesearch, et al.

3 **VIII. Recordkeeping**

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

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

25 **IX. Compliance Monitoring**

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

1 A. Within 14 days of receipt of a written request from a representative of the
2 FTC, Defendant must: submit additional compliance reports or other
3 requested information, which must be sworn to under penalty of perjury;
4 appear for depositions; and produce documents, for inspection and copying.
5 The FTC is also authorized to obtain discovery, without further leave of
6 Court, using any of the procedures prescribed by Federal Rules of Civil
7 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and
8 69.

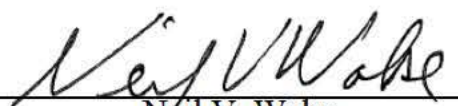
9 B. For matters concerning this Order, the FTC is authorized to communicate
10 directly with Defendant. Defendant must permit representatives of the FTC
11 to interview any employee or other person affiliated with Defendant who
12 has agreed to such an interview. The person interviewed may have counsel
13 present.

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

20 **X. Retention of Jurisdiction**

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

23 Dated this 11th day of December, 2015.

24 
25 _____
26 Neil V. Wake
27 United States District Judge
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