

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney

_____)	
In the Matter of)	
)	
Red Ventures Holdco, LP,)	
 a limited partnership,)	
)	
and)	Docket No. C-4627
)	
Bankrate, Inc.,)	
 a corporation.)	
)	
_____)	

ORDER TO HOLD SEPARATE AND MAINTAIN ASSETS
[Public Record Version]

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed merger of Baton Merger Corp. (“Baton”), a wholly-owned subsidiary of Red Ventures Holdco, L.P., (“Red Ventures”), and Bankrate, Inc. (“Bankrate”), collectively “Respondents,” and Respondents having been furnished thereafter with a copy of a draft of the Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, 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 Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having determined to accept the executed Consent Agreement and to place such Consent Agreement containing the Decision and Order on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues the following Order to Hold Separate and Maintain Assets (“Hold Separate Order”):

1. Respondent Red Ventures Holdco, LP, is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of North Carolina, with its headquarters and principal place of business located at 1423 Red Ventures Drive, Fort Mill, SC 29707.
2. Respondent Bankrate, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its headquarters and principal place of business located at 1675 Broadway, 22nd Floor, New York, NY 10019.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS HEREBY ORDERED that, as used in this Hold Separate Order, the following definitions, and all other definitions used in the Consent Agreement and the Decision and Order, shall apply:

- A. “Red Ventures” means Red Ventures Holdco, L.P., its directors, officers, partners, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates in each case controlled by Red Ventures Holdco, L.P., including, but not limited to, Baton Merger Corp., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each. Red Ventures includes Bankrate, after the Merger Date.
- B. “Bankrate” means Bankrate, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates in each case controlled by Bankrate, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Respondents” means Red Ventures and Bankrate, individually and collectively.

- D. “Commission” means the Federal Trade Commission.
- E. “Caring.com Held Separate Business” means Caring.com, the Caring.com Assets, the Caring.com Business, and the Caring.com Held Separate Employees.
- F. “Caring.com Held Separate Employees” means the Caring.com Employees, including the Caring.com Key Employees.
- G. “Decision and Order” means the:
 - 1. Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance of the final Decision and Order by the Commission; and
 - 2. Final Decision and Order issued by the Commission following the issuance and service of the final Decision and Order by the Commission.
- H. “Hold Separate Period” means the time period beginning as of the date on which Respondents sign the Consent Agreement in this matter, and shall terminate pursuant to the provisions of Paragraph IX. of this Hold Separate Order.
- I. “Monitor” means any monitor appointed pursuant to Paragraph V. of this Hold Separate Order or Paragraph V. of the Decision and Order.
- J. “Orders” means the Decision and Order and this Hold Separate Order.

II.

IT IS FURTHER ORDERED that during the Hold Separate Period:

- A. Respondents shall take such actions as necessary to maintain the full economic viability, marketability, and competitiveness of the Caring.com Held Separate Business, and shall prevent the destruction, removal, wasting, deterioration, or impairment of any of the assets of the Caring.com Held Separate Business, except for ordinary wear and tear, and shall not sell, transfer, encumber, or otherwise impair the Caring.com Held Separate Business or any assets related thereto.
- B. Until Respondents have fully divested the Caring.com Assets, Respondents shall:
 - 1. Keep and hold the Caring.com Held Separate Business separate, apart, and independent of Respondents’ other businesses and assets as required by this Hold Separate Order and shall vest the Caring.com Held Separate Business with all rights, powers, and authority necessary to conduct its business; and
 - 2. Not exercise direction or control over, or influence directly or indirectly, the Caring.com Held Separate Business or any of its operations, or the Monitor, except to the extent that Respondents must exercise direction and control over the

Caring.com Held Separate Business as is necessary to assure compliance with this Hold Separate Order, the Consent Agreement, the Decision and Order, and all applicable laws.

- C. Respondents shall maintain the operations of the Caring.com Held Separate Business in the regular and ordinary course of business and in accordance with their past practice (including regular repair and maintenance of the assets of such business) and shall use their best efforts to preserve the existing relationships with the following: customers; suppliers; vendors and distributors; employees; and others having business relationships with the Caring.com Held Separate Business. Respondents' responsibilities pursuant to this Paragraph II.C. shall include, but are not limited to, the following:
1. Respondents shall provide the Caring.com Held Separate Business with sufficient capital to operate at least at current rates of operation, to meet all capital calls with respect to such business and to carry on, at least at their scheduled pace, all capital projects, business plans and promotional activities for the Caring.com Held Separate Business;
 2. Respondents shall continue, at least at their scheduled pace, any additional expenditures for the Caring.com Held Separate Business authorized prior to or as of July 2, 2017, including, but not limited to, all research, development, manufacture, distribution, marketing, and sales expenditures;
 3. Respondents shall provide such resources as may be necessary to respond to competition against the Caring.com Held Separate Business and/or prevent any diminution of sales related to Senior Care Paid Referral Services prior to or as of July 2, 2017;
 4. Respondents shall provide such resources as may be necessary to maintain the competitive strength and positioning of Caring.com at major customer accounts;
 5. Respondents shall make available for use by the Caring.com Held Separate Business funds sufficient to perform all routine maintenance of the Caring.com Held Separate Business;
 6. Respondents shall provide the Caring.com Held Separate Business with such funds necessary to maintain the viability, marketability, and competitiveness of the Caring.com Held Separate Business;
 7. Respondents shall provide the same or equivalent support services to the Caring.com Held Separate Business as were being provided to this business by Respondent Bankrate prior to or as of July 2, 2017; and
 8. Respondents shall cooperate with the Monitor in the performance of his or her obligations under Paragraph V. of this Hold Separate Order;

provided, however, that: (i) Respondents' personnel providing services to the Caring.com Held Separate Business must maintain all Caring.com Confidential Business Information on a confidential basis, and except as expressly permitted by the Orders, shall be prohibited from disclosing, providing, discussing, exchanging, circulating, or otherwise transmitting such information to or with any person whose employment involves Respondents' retained businesses, other than the Caring.com Held Separate Business; and (ii) such personnel shall also execute appropriate confidentiality agreements prohibiting the disclosure of any Caring.com Confidential Business Information in accordance with Paragraph IV.D. of this Hold Separate Order.

- D. The purpose of this Hold Separate Order is to (1) maintain and preserve the Caring.com Held Separate Business as a viable, competitive, and ongoing business independent of Respondents until the divestiture required by the Decision and Order is achieved; (2) assure that no Caring.com Confidential Business Information is exchanged between Respondents and the Caring.com Held Separate Business except in accordance with the provisions of this Hold Separate Order; and (3) prevent interim harm to competition pending the divestiture and other relief.

III.

IT IS FURTHER ORDERED that:

- A. Respondents shall cooperate with, and take no action to interfere with, or impede the ability of: (1) the Monitor, (2) any Caring.com Held Separate Employee, or (3) any of Respondents' employees providing support services to the Caring.com Held Separate Business, to perform his or her duties and responsibilities consistent with the terms of this Hold Separate Order.
- B. Respondents shall cooperate with and assist the proposed Acquirer of the Caring.com Held Separate Business to evaluate independently and retain the Caring.com Employees, such cooperation to include at least the following:
1. Not later than forty-five (45) days before the Divestiture Date, Respondents shall, to the extent permitted by applicable law: (i) provide the proposed Acquirer a list of all Caring.com Held Separate Employees, identifying which Persons are Caring.com Key Employees; and (ii) provide Employee Information for each Person on the list;

2. Not later than thirty (30) days before the Divestiture Date, Respondents shall provide the proposed Acquirer with:
 - a. an opportunity to meet, personally and outside the presence or hearing of any employee or agent of Respondents, with any Caring.com Employee;
 - b. an opportunity to inspect the personnel files and other documentation relating to any such employee, to the extent permissible under applicable laws; and
 - c. to make offers of employment to any Caring.com Employee;
3. Respondents shall: (i) not interfere, directly or indirectly, with the hiring or employing by a proposed Acquirer of any Caring.com Employee; (ii) not offer any incentive to any Caring.com Employee to decline employment with a proposed Acquirer; (iii) not make any counteroffer to any Caring.com Employee who receives a written offer of employment from a proposed Acquirer; and (iv) remove any impediments within the control of Respondents that may deter any Caring.com Employee from accepting employment with a proposed Acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondents that would affect the ability of such employee to be employed by a proposed Acquirer;

provided, however, that nothing in this Hold Separate Order shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of any employee.

C. Respondents shall provide reasonable financial incentives:

1. to the Caring.com Held Separate Employees including the continuation of all employee benefits offered by Respondents (*i.e.*, regularly schedule or merit raises and bonuses, and regularly scheduled vesting of all pension benefits) during the Hold Separate Period, to encourage such employees to continue in his/her position with the Caring.com Business until the Divestiture Date; and
2. to the Caring.com Key Employees as needed to facilitate the employment of such employees by the proposed Acquirer.

IV.

IT IS FURTHER ORDERED that:

- A. During the Hold Separate Period, Respondents shall not:
1. Possess or control any APFM Confidential Business Information; or
 2. Request, solicit, seek, receive, obtain, or otherwise have access to, directly or indirectly, any APFM Confidential Business Information from any Person(s), including the Firewalled Entities; or
 3. Provide any services to or have any business dealings with the Firewalled Entities as related to APFM.
- B. During the Hold Separate Period, Respondents shall not, except as expressly permitted by or as necessary to comply with this Hold Separate Order:
1. Provide, disclose, share, convey, discuss, exchange, circulate, or otherwise grant access to, directly or indirectly, any Caring.com Confidential Business Information, including information related to the divestiture of the Caring.com Held Separate Business, to or with any Person(s), including the Firewalled Individuals; or
 2. Use, directly or indirectly, the Caring.com Confidential Business Information for any purpose.
- C. As of the date Respondents sign the Consent Agreement, Respondents shall: (1) take all actions as are necessary and appropriate to prevent access to, or the disclosure or use of, Caring.com Confidential Business Information by or to any Person(s) not authorized to access, receive, or use such Confidential Business Information pursuant to the terms of this Order; and (2) with the advice and assistance of the Monitor, develop and implement procedures and requirements with respect to such Confidential Business Information to ensure that:
1. The Caring.com Held Separate Business does not provide, disclose, or otherwise make available any Caring.com Confidential Business Information to the Firewalled Entities, and is in compliance with the requirements of the Orders;
 2. Employees of Respondents' retained businesses, including the Firewalled Individuals, do not request, solicit, seek, receive, obtain, use or otherwise have access to, directly or indirectly, any Caring.com Confidential Business Information from the Caring.com Held Separate Business;

provided, however, employees of Respondents' retained businesses are not in violation of this Paragraph if: (1) they provide or are involved in the provision of

Transition Services under the (i) Hold Separate Order or the Decision and Order, or (ii) any Remedial Agreement; or (2) are complying with financial reporting requirements or environmental, health, and safety policies and standards, ensuring the integrity of the financial and operational controls on the Caring.com Held Separate Business, obtaining legal advice, defending legal claims, investigations, or enforcing actions threatened or brought against the Caring.com Held Separate Business, or as required by law;

3. The Firewalled Individuals are:

- a. In compliance with the requirements of the Orders;
- b. Prohibited from, directly or indirectly, influencing or attempting to influence or participate in any vote of Respondents' Board pertaining to the Caring.com Held Separate Business; and
- c. Prohibited from participating in any discussions or communications with Respondents and the Firewalled Entities about the Caring.com Held Separate Business.

D. As part of the procedures and requirements described in Paragraph IV.C. of this Hold Separate Order, Respondents shall:

1. Within ten (10) days of the date Respondents sign the Consent Agreement, require all Respondents' employees who have access to Caring.com Confidential Business Information, including the Firewalled Individuals, to sign an appropriate non-disclosure agreement agreeing to comply with the prohibitions and confidentiality requirements of this Order; *provided, however,* for Respondents' employees with access to Caring.com Confidential Business Information who have clerical positions but no operational or commercial responsibilities, Respondents may send an appropriate notification regarding the prohibitions and confidentiality requirements of this Order by email with return receipt requested or other similar transmission, and shall keep a file of such return receipts for one (1) year;
2. Require and enforce compliance with appropriate remedial action in the event of non-compliant access, use, or disclosure of Caring.com Confidential Business Information in violation of this Order;
3. Institute all necessary information technology procedures, authorizations, protocols, and any other controls necessary to comply with the Order's requirements.

V.

IT IS FURTHER ORDERED that:

- A. At any time after the Respondents sign the Consent Agreement in this matter, the Commission may appoint a monitor (“Monitor”) to assure that the Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by this Order, the Hold Separate Order and the Remedial Agreements. The Commission hereby appoints Richard A. Shermer as the Monitor and approves the Monitor Agreement between R. Shermer & Company and Respondents.
- B. Not later than one (1) day after the appointment of the Monitor, Respondents shall, pursuant to the Monitor Agreement and to the Orders, confer on the Monitor all the rights and powers necessary to permit the Monitor to monitor Respondents’ compliance with the relevant requirements of the Orders in a manner consistent with the purposes of the Orders.
- C. The Monitor shall serve until the later of (1) twelve (12) months after the Divestiture Date or (2) the termination of all Respondents’ obligations under all Remedial Agreements; *provided, however*, the Commission may extend or modify this period as may be necessary to accomplish the purposes of the Orders.
- D. Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:
 - 1. The Monitor shall have the power and authority to monitor Respondents’ compliance with the divestiture, hold separate and asset maintenance obligations and related requirements of the Orders, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of the Orders and in consultation with the Commission, including, but not limited to:
 - (a) Assuring that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Orders and the Remedial Agreements;
 - (b) Monitoring any Transition Services Agreements; and
 - (c) Assuring that Confidential Business Information is not received or used by Respondents or the Acquirer, except as allowed in the Orders;
 - 2. The Monitor shall act in a fiduciary capacity for the benefit of the Commission;
 - 3. The Monitor shall serve for such time as is necessary to monitor Respondents’ compliance with the provisions of the Orders and the Remedial Agreements;

4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the ordinary course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondents' compliance with their obligations under the Orders and the Remedial Agreements. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondents' compliance with the Orders and the Remedial Agreements;
5. The Monitor shall serve, without bond or other security, at the expense of Respondents on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have the authority to employ, at the expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities. The Monitor shall account for all expenses incurred, including fees for services rendered, subject to the approval of the Commission;
6. Respondents shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor. For purposes of this Paragraph V., the term "Monitor" shall include all persons retained by the Monitor pursuant to Paragraph V.D.5 of this Hold Separate Order;
7. Respondents shall report to the Monitor in accordance with the requirements of the Orders and/or as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by the Respondents, and any reports submitted by the Acquirer with respect to the performance of Respondents' obligations under the Orders and the Remedial Agreements;
8. Within one (1) month from the date the Monitor is appointed pursuant to this Paragraph, every sixty (60) days thereafter, and as otherwise requested by the Commission, the Monitor shall report in writing to the Commission concerning performance by Respondents' of their obligations under the Orders and the Remedial Agreements;

9. Respondents may require the Monitor and each of the Monitor's consultants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, such agreement shall not restrict the Monitor from providing any information to the Commission.
- E. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Monitor's duties.
- F. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor.
- G. In the event a substitute Monitor is required, the Commission shall select the Monitor, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of the proposed substitute Monitor within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed substitute Monitor, Respondents shall be deemed to have consented to the selection of the proposed substitute Monitor. Not later than ten (10) days after appointment of a substitute Monitor, Respondents shall execute an agreement that, subject to the prior approval of the Commission, confers on the substitute Monitor all the rights and powers necessary to permit the substitute Monitor to monitor Respondents' compliance with the terms of this Hold Separate Order, the Decision and Order, and the Remedial Agreements in a manner consistent with the purposes of this Order.
- H. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Orders and the Remedial Agreements.
- I. A Monitor appointed pursuant to this Hold Separate Order may be, but need not be, the same Person(s) appointed, pursuant to the relevant provisions of the Decision and Order, as either the Monitor or the Divestiture Trustee.

VI.

IT IS FURTHER ORDERED that, within thirty (30) days after this Hold Separate Order becomes final, and every thirty (30) days thereafter until this Hold Separate Order terminates, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with all provisions of this Hold Separate Order. Respondents shall include in their reports, among other things that are required from time to time, a full description of the efforts being made to comply with the Hold Separate Order.

VII.

IT IS FURTHER ORDERED that each Respondent shall notify the Commission at least (30) days prior to:

- A. Any proposed dissolution of such Respondent;
- B. Any proposed acquisition, merger, or consolidation of such Respondent; or
- C. Any other change in such Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

VIII.

IT IS FURTHER ORDERED that for the purpose of determining or securing compliance with this Hold Separate Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, with respect to any matter contained in this Hold Separate Order, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy all non-privileged books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents related to compliance with the Consent Agreement and/or this Order, which copying services shall be provided by Respondents at the request of the authorized representative of the Commission and at the expense of Respondents; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from them, to interview officers, directors, or employees of Respondents, who may have counsel present.

IX.

IT IS FURTHER ORDERED that this Hold Separate Order shall terminate at the earlier of:

- A. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or
- B. The day after Respondents (or a Divestiture Trustee) complete the divestiture of the Caring.com Assets as required by the Decision and Order.

By the Commission.

Donald S. Clark
Secretary

ISSUED: November 2, 2017

NON-PUBLIC APPENDIX A

[Monitor Agreement]

[Redacted From the Public Record Version, But Incorporated By Reference]